

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	
)	
)	
v.)	Criminal No. 05-10102-JLT
)	
JOHN BRUENS, MARY STEWART,)	
MELISSA VAUGHN AND)	
MARK SIROCKMAN,)	
)	
Defendants.)	

**GOVERNMENT'S OPPOSITION TO THE DEFENDANTS'
JOINT MOTION FOR A BILL OF PARTICULARS**

The Government herewith opposes the Joint Motion of the Defendants, John Bruens, Mary Stewart, Melissa Vaughn and Mark Sirockman, for a Bill of Particulars and requests the Court to deny the Motion for the reasons that:

Contrary to the defendants' assertion in this Motion for a Bill of Particulars, in which they assert that the Indictment "broadly alleges" the charges against them, the defendants admit in the first paragraph of their Memorandum in Support of the Defendants' Motion for Immediate Disclosure of Fed. R. Crim. P. 404(b) Evidence, that the Indictment in this case charges a "relatively narrow conspiracy." Indeed, the charges alleged in the Indictment are very specific and narrowly drawn. Thus, as drafted the Indictment provides the defendants all the information necessary to identify the nature of the charges against them with sufficient particularity so as to enable them to prepare a defense, to prevent surprise at trial, and to interpose a plea of double jeopardy should they be prosecuted a second time for the same offense. *See e.g., Wong Tai v. United States*, 273 U.S. 77 (1927); *United States v. Sepulveda*, 15 F.3d 1161, 1192-1193 (1st Cir.

1993), *cert. denied*, 512 U.S. 1223 (1994); *United States v. Abreu*, 952 F.2d 1458, 1469 (1st Cir.) (collecting cases), *cert. denied*, 503 U.S. 994 (1992); *United States v. Bortnovsky*, 820 F.2d 572, 574 (2d Cir. 1987). Moreover, much of the information sought by the defendants is already provided in the Indictment. *Bortnovsky*, 820 F.2d at 574. Therefore, the defendants' request for a Bill of Particulars must be denied.¹

I. ARGUMENT:

A. The Defendants' Requests:

The defendants request a Bill of Particular that identifies, 1) "[e]ach instance in which an offer or payment was made to a physician or entity by or on behalf of Serono Laboratories, Inc. ("Serono") that the government will allege at trial evidences" the charges in the Indictment (both the Conspiracy and substantive charges); and 2) specific evidence supporting those charges in the Indictment, including the identity of any conspirators, a general description of the inducement alleged, the date of each instance, the manner and means that any unindicted co-conspirator entered the conspiracy and, the thought process of the government in evaluating the potential criminal liability concerning doctors not named in the Indictment who attended the Cannes conference.

Much of the information requested by the defendants is alleged in the Indictment. The remaining information requested is not required to be disclosed to the defendants and/or is well beyond the scope of a Bill of Particulars. The defendants assert that they seek to discover

¹ It appears from the assertions in the first paragraph of the Motion for a Bill of Particulars that the defendants are most concerned about the potential introduction by the government of evidence under Fed. R. Crim. P. 404 (b). The discovery of such evidence is not within the ambit of a Bill of Particulars.

“which transactions, out of a universe of literally thousands of facially legitimate transactions,” are alleged to be illegal by the government, when, in fact, the offers or payments of kickbacks alleged in the Conspiracy and substantive counts of the Indictment are relatively few. Moreover, the real concern expressed in the defendants’ motion is the potential admission of Rule 404(b) evidence; it is not that the defendants have not been given sufficient information to prepare their defense or to prevent surprise at trial. Footnote 4 on page 5 of the defendants’ Memorandum acknowledges that the Indictment does set forth and incorporates the specific allegations of offering or paying kickback in each of the substantive counts. These allegations are not only contained in the Conspiracy count, but are also in the substantive counts, which specifically reallege them.

Indeed, the defendants state that they will withdraw their motion for a Bill of Particulars if the government will agree (at this very early date) “not to seek to introduce other allegations of remuneration or inducements other than those specifically incorporated by reference in each count.” (Defendants Joint Memorandum at p. 5, n. 4). By so doing, the defendants are “mixing apples and oranges.” As they admit in their motion for immediate disclosure of Rule 404(b) evidence, the Indictment is narrowly drawn and specifically alleges the wrongdoing with which each defendant is charged in this case. Whether the government may offer, and the Court may admit, evidence of other “bad acts” or “wrongful conduct” is a separate legal and factual question. The defendants in this case intermingle these issues in both motions presently before the Court.² This should not be permitted and is a position that is not supported by the law or the

² The defendants also rely upon the number of documents provided in discovery in this case. This will be addressed below.

facts.

B. Applicable Law:

The purpose of a bill of particulars is to provide the accused with details of the charges against him where necessary to enable him to prepare his defense, to avoid surprise at trial, and to protect against double jeopardy. *See United States v. Paiva*, 892 F.2d 148, 154 (1st Cir. 1989)(collecting cases). The First Circuit in, *United States v. Sepulveda*, 15 F.3d at 192-1193, recognized that:

Motions for bills of particulars are seldom employed in modern federal practice. When pursued, they need be granted only if the accused, in the absence of a more detailed specification, will be disabled from preparing a defense, caught by unfair surprise at trial, or hampered in seeking the shelter of the Double Jeopardy Clause.

See United States v. Abreu, 952 F.2d 1458, 1469 (1st Cir.) (collecting cases), *cert. denied*, 503 U.S. 994 (1992). The Court of Appeals reviews refusals to require bills of particular under an abuse-of-discretion standard. *See United States v. Hallock*, 941 F.2d 36, 40 (1st Cir.1991).

Indeed the information requested by the defendants is not required to be proven by black letter conspiracy law. A conspirator need not know the identities of all of his other co-conspirators; nor need he know the acts of each and every conspirator. Nor does a conspirator need to agree to every objective of the conspiracy. As the Sands Model Jury Instruction on Conspiracy Membership states:

It is important for you to note that the defendant's participation in the conspiracy must be established by independent evidence of his own acts or statements, as well as those of the other alleged co-conspirators, and reasonable inference which may be drawn from them. The defendant's knowledge is a matter of inference from the facts proved. In that connection, I instruct you that to become a member of the conspiracy, the defendant need not have known the

identities of each and every other member, nor need he have been apprized of all of their activities. Moreover, the defendant need not have been fully informed as to all of the details, or the scope, of the conspiracy in order to justify an inference of knowledge on her part. Furthermore, the defendant need not have joined in all of the conspiracy's unlawful objectives. The extent of a defendant's participation has no bearing on the issue of a defendant's guilt. A conspirator's liability is not measured by the extent or duration of his participation. Indeed, each member may perform separate and distinct acts and may perform them at different times. Some conspirators play major roles, while others play minor parts in the scheme. An equal role is not what the law requires. In fact, even a single act may be sufficient to draw the defendant within the ambit of the conspiracy.

2 L. Sand, et al., Modern Federal Jury Instructions, ¶ 19.01 INSTRUCTION 19-6, p. 19-33-34 (2001). A defendant need not know the identities of, nor the number of, the other members of the conspiracy, nor the entire scope of the conspiracy, nor the means by which the object or the purposes of the conspiracy were to be accomplished. *Blumenthal v. United States*, 332 U.S. 529, 557 (1947). A defendant can be convicted as a conspirator even though he may have played only a minor role in the conspiracy. *United States v. Houle*, 237 F.3d 71 76 (1st Cir.), *cert. denied*, 532 U.S. 1074 (2001) *citing*, *United States v. DeLeon*, 187 F.3d 60, 63 (1st Cir.), *cert. denied*, 528 U.S. 1030 (1999).

C. The Indictment:

The Indictment here charges a “relatively narrow” conspiracy, that the defendants participated in a conspiracy to offer and pay illegal remunerations (an all expenses paid trip to attend a medical conference in Cannes France) to certain physicians in return for writing additional prescriptions of Serostim during a discrete period of time.³ The defendants Bruens

³ The defendants misrepresent the nature of the charges in this case in both their Memorandum in Support of this Bill of Particulars, as well as in their Memorandum in Support

(who was then Vice President of Marketing) and Stewart (who was then Vice President of Sales) are charged in the Conspiracy Count and seven substantive counts of the Indictment. The defendants Vaughn and Sirockman (both then Regional Directors for Sales) are charged in the Conspiracy count and each are charged in two separate substantive counts. In its January 30, 2006 discovery letter (Exhibit 6 hereto), the government identified to the defendants each of the physicians alleged in the Indictment to have been offered or paid kickbacks.

The defendants reliance on the cases concerning submission of false statements or Medicare fraud, even though they involved a multitude of documents, are misplaced. In *United States v. Bortnovsky*, the defendants were charged with violating the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1961, *et. seq.*, and mail fraud for filing false insurance claims. The court noted that the essential facts concerning the fraudulent claims relating to the burglaries were not alleged in the Indictment. *Id.*, 820 F.2d at 574-575. The court held that the “relevance of key events were shrouded in mystery at the commencement of the trial and throughout the trial.” *Id.*, 820 F2d at 575. *United States v. Nachamie*, 91 F.Supp.2d 565 (S.D. N.Y.), involved a conspiracy to commit Medicare fraud based upon the submission of false claims. The Indictment did not inform the defendants which claims were false claims or in what way they were false. *Id.*, 91 F.Supp2d at 571. These facts are distinct from the case at bar. This case does not involve submissions of false claims but offers or payment of illegal remunerations, that are specifically detailed in the Indictment.

their Motion for Immediate Disclosure of Rule 404(b) evidence. It is important to note that this Indictment does not allege submission of false claims or Medicaid fraud, but rather a conspiracy and substantive counts of offering to pay or paying kickbacks to doctors. Once again, the defendants are “mixing apples and oranges.”

The Indictment is narrowly drawn and does not “broadly allege” a “universe of thousands of facially legitimate transactions” as being illegal – as represented by the defendants in their Memorandum. Rather, the Indictment charges a conspiracy that includes an allegation that John Bruens announced at the Serono National Sales Meeting in March of 1999 that offers for the trip to Cannes were made to ten (10) doctors (§ 51); the substantive counts charge offers or payments of kickbacks relating to the Cannes trip to seven (7) doctors. (Counts 2-8). The allegations in this case are very specific as to the nature and details of the conspiracy alleged in Court One, as well in each respective substantive count by specifically incorporating those allegations by reference. As the Court stated in *United States v. Avellino*, 129 F.Supp.2d 214, 220 (E.D.N.Y. 2001), a Bill of Particulars should only be required where the charges against the defendant are so general such that they do not advise the defendant of the charges against them. This is not the case here as the defendants have sufficient details to formulate their defense.

In fact, the defendants acknowledge the specificity in the substantive counts in footnote 4 on page 5 of their Memorandum. As a result, they express a willingness to withdraw their request for this Bill of Particulars if the United States agrees to not introduce any other offers or payments of illegal remunerations. That offer identifies this motion as more akin to an attempt to corral the government’s evidence at this early stage of the case by limiting any evidence of other

“bad acts” including offers or payments of kickbacks to physicians by these defendants.⁴ That is not the purpose of a bill of particulars. The Indictment is more than sufficient to apprise the defendants of the charges against which they must defend, as well as to protect them from any claim of double jeopardy.

D. The Volume of Discovery:

The defendants also assert that the sheer volume of documents provided by the government disables them from identifying the evidence necessary to prepare their defense. Although the evidence provided to the defendants has been voluminous, the review of such evidence is not disabling. The volume of records in this case does not warrant or justify a Bill of Particulars. The government has engaged in extraordinary efforts to provide the necessary guidance to the defendants regarding these documents to aid them in identifying any documents relevant to this narrow Indictment.

First, the government provided to the defendants most of the documents produced by Serono via an electronic database which the defendants could then apply an optical character reader or “OCR” so that they can word search the records provided. Along with its initial automatic disclosures, the government also provided to the defendants the Index produced by Serono relating to that production. (Exhibits 1 and 2 attached hereto).

Second, the government segregated approximately 144 boxes of documents that specifically related to this Indictment for the inspection of the defendants and an index thereto.

⁴ The government’s use of the term “bad acts” in this opposition is not intended to be a concession that offers or payments of other remunerations fall within the parameters of Rule 404(b). Indeed, it may be the case that any evidence the government may offer will not come within Rule 404(b) but is intrinsically intertwined with the conspiracy alleged in the Indictment. *See United States v. Epstein*, 426 F.3d 431, 439 (1st Cir. 2005).

(Exhibit 3 attached hereto). The defendants then inspected those records and determined which among them they would scan into their electronic database.

Third, after the Serono company settlement was made public, the government provided hard copies of documents concerning the relators in this case, which included early disclosure of Jencks Materials concerning the relators.

Later, after having discovered additional documents that may not have been included in the first production, the government provided those documents to the defendants both electronically (via CD's) and also by making available hard copies of any documents or items not available electronically to the defendants with an index thereto. (Exhibits 6A and 7A hereto).

The cases relied upon by the defendants are inapposite because those cases do not include either the specificity in the Indictment as in the case at bar, nor did they include the road maps through the discovery that has been provided to the defendants in this case. *United States v. Trie*, 21 F.Supp.2d 7, 21-22 (D.D.C. 1998); and *United States v. Pack*, 20 F.R.D. 209, 212 (D. Del. 1957).

Thus, although there have been voluminous materials made available to the defendants, the government has segregated Cannes specific documents, as well as provided several road maps through those documents. These tools will provide the defendants with sufficient ability to review the documents and prepare their defense. The defendants are not entitled to a Bill of Particulars on this ground.

Wherefore, for all the foregoing reasons, the United States requests the Court to deny the defendants Joint Motion for a Bill of Particulars.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney
District of Massachusetts

By: /s/ Mary Elizabeth Carmody

DATED: March 3, 2006

MARY ELIZABETH CARMODY
Assistant U.S. Attorney
SUSAN M. POSWISTILO
Assistant U.S. Attorney
U. S. Attorney's Office
John Joseph Moakley
United States Courthouse
1 Courthouse Way, Suite 9200
Boston, MA 02210
(617) 748-3290

CERTIFICATE OF SERVICE

I hereby certify that on a true copy of the above document was served upon the attorney of record for each other party by e-mail on March 3, 2006.

/s/ Mary Elizabeth Carmody

MARY ELIZABETH CARMODY
Assistant U.S. Attorney

INDEX

<u>No.</u>	<u>Exhibit</u>	<u>Date</u>
1	Automatic Discovery Letter.....	May 31, 2005
	1A John Bruens	
	1B Mary Stewart	
	1C Melissa Vaughn	
	1D Mark Sirockman	
2	Index of Serono Documents.....	May 31, 2005
3	FBI – Boston Inventory (Cannes Related Documents).....	May 27, 2005
4	Relator Discovery Letter.....	November 14, 2005
	4A John Bruens	
	4B Mary Stewart	
	4C Melissa Vaughn	
	4D Mark Sirockman	
5	State Settlement Agreements Reproduction	November 21, 2005 & December 5, 2005
	5A John Bruens	
	5B Mary Stewart	
	5C Melissa Vaughn	
	5D Mark Sirockman	
6	Government’s Response per Local Rule 116.3(A)	January 30, 2006
	6A Index of Production That May Not Have Been Scanned	
7	Government’s Supplemental Discovery Letter.....	February 27, 2006
	7A Index of Additional Discovery Provided	



U.S. Department of Justice

Michael J. Sullivan
United States Attorney
District of Massachusetts

Main Reception: (617) 748-3100

John Joseph Moakley United States Courthouse
1 Courthouse Way
Suite 9200
Boston, Massachusetts 02210

May 31, 2005

VIA FACSIMILE AND FEDERAL EXPRESS

Thomas McC. Souther, Esq.
Sidley, Austin, Brown & Wood, LLP
787 Seventh Avenue
New York, NY 10019

Re: United States v. John Bruens, et al.
Criminal No. 05-10102-JLT

Dear Mr. Souther:

Pursuant to Fed. R. Crim. P. 16 and Rules 116.1(C) and 116.2 of the Local Rules of the United States District Court for the District of Massachusetts, the government provides the following automatic discovery in the above-referenced case:

A. Rule 16 Materials

1. Statements of Defendant under Rule 16 (a)(1)(A) and (B)

a. Oral Statements

The government is unaware of any oral statements made by the defendant Bruens in response to interrogation by a person then known to the defendant to be a government agent which the government intends to use at trial.

b. Written Statements

The documentary evidence that is being produced herewith and/or which is available for inspection and copying as described below contain written statements of the defendant, including without limitation memoranda, handwritten notes, letters and e-mails.

c. Recorded Statements

There are no relevant recorded statements of the defendant John Bruens in the possession, custody or control of the government, which are known to the attorney for the government.

d. Grand Jury Testimony of the Defendant

The defendant John Bruens did not testify before a grand jury in relation to this case.

2. Defendant's Prior Record under Rule 16 (a)(1)(D)

The government is unaware at this time of any prior criminal record of the defendant John Bruens.

3. Documents and Tangible Objects under Rule 16(a)(1)(E)

Enclosed are indices/descriptions (and where noted, copies) of books, papers, documents, and tangible items, that are within the possession, custody or control of the government, and which are material to the preparation of the defendant's defense or are intended for use by the government as evidence in chief at the trial of this case, or were obtained from or belong to the defendant:

- a. Documents, items and tangible objects, including originals, produced by Serono, Inc. (a copy of the Index of documents produced by the Serono is enclosed herewith as Exhibit A);
- b. Documents, items and tangible objects relating to the allegations of this Indictment that were produced by companies and/or individuals other than Serono, including but not limited to documentary, financial, patient and other records relating to the Cannes conference and specifically including appointment books and records of patient appointments from Drs. Alexis Corazon and Howard Grossman, data from Dr. Grossman's palm pilot; and an electronic printout of patients for Dr. Joseph Piperato,
- c. Documents, items and tangible objects relating to travel arrangements and financial payments to physicians obtained from companies and/or individuals other than Serono;
- d. Data re: Serostim prescriptions and Medicaid claims paid from Serono, Medicaid agencies and third-party payors;
- e. Records of patients of the doctors who were invited to the Cannes conference but did not attend, and those doctors who attended the Cannes conference;
- f. Documents from pharmacies, wholesalers and data collection companies relating to Serostim prescriptions; and
- g. Documents, items and tangible objects produced by Serono employees relating to their employment, including but not limited to mugs, masks, videos, pictures, and the like.

All of the documents, items and tangible objects identified above are available for review at the United States Attorney's Office in Boston. The originals may be inspected by contacting the undersigned Assistant U.S. Attorney and making an appointment to view the same at a mutually convenient time. Many, but not all, of the documents described will be made available in electronic format by providing the government with an external USB hard drive with 80 GB of storage capacity.

In addition, documents from the files of the U.S. Food and Drug Administration ("FDA") relating to the approval and promotion of Serostim, the Orphan Drug Status, and relating to the clearance of the Bioelectrical Impedance Analysis ("BIA") device and related software are located at various offices of the FDA in Maryland and Michigan. These documents are unrelated to this Indictment and are not being produced at this time.

4. Reports of Examinations and Tests under Rule 16 (a)(1)(F)

Upon your request, and agreement to provide reciprocal discovery, we will provide you with copies of the following:

- a. Report of latent hand-writing analysis by the Federal Bureau of Investigation of the daily appointment book of Dr. Howard Grossman; and
- b. Report of the Polygraph Examination of Dr. Joseph Piperato.

These documents and related items and tangible objects are available for review at the United States Attorney's Office in Boston. The originals may be inspected by contacting the undersigned Assistant U.S. Attorney and making an appointment to view the same at a mutually convenient time.

B. Search Materials under Local Rule 116.1(C)(1)(b)

No search warrants were obtained in connection with investigation of the charges contained in the indictment in this case.

C. Electronic Surveillance under Local Rule 116.1(C)(1)(c)

No oral, wire, or electronic communications of the defendant as defined in 18 U.S.C. § 2510 were intercepted relating to the charges in the indictment.

D. Consensual Interceptions under Local Rule 116.1(C)(1)(d)

Out of an excess of caution, because the government does not believe at this stage it will offer any such evidence at trial, below is a written description of interceptions (as the term "intercept" is defined in 18 U.S.C. § 2510(4)) of oral communications, relating to the charges contained in the indictment made with consent of one of the parties to the communication

("consensual interceptions"), which the government intends to offer as evidence in its case-in-chief is set forth below¹:

June 6, 2003 tape of conversation between Dr. Ralph Liporace and Raymond Hudgens. A transcription of the tape is attached as Exhibit B. The tape recording is available for inspection at the United States Attorney's Office in Boston by making an appointment with the undersigned Assistant U.S. Attorney at a mutually convenient time.

The government is also in possession of a tape recording of an August 15, 2000 conference call between and among Serono Regional Directors including Adam Stupak, Melissa Vaughn, David Sawin, Angela Willis, David Flowers, Vance Dougherty, and Steve Richards. This conference call post-dates and is unrelated to any of the allegation in this Indictment and is not being produced at this time because it is not required by Local Rule 116.1(C)(1)(d)(i). Nevertheless, the original tape recording is available for inspection at the United States Attorney's Office in Boston by making an appointment with the undersigned Assistant U.S. Attorney at a mutually convenient time.

E. Unindicted Coconspirators under Local Rule 116.1(C)(1)(e)

The following are unindicted co-conspirators as charged in the indictment.

Ellen Frank, Jeffrey Hart, Richard Azulay, Raymond Hudgens, Adam Whitehurst, Joseph Piperato, M.D., Jeffrey Aromando, Alexis Corazon, M.D., Konstantine Pinteris, Jeffrey Lynch, Howard Grossman, M.D., Jeffrey Wallach, M.D.(now deceased); Susan Womble and Norma Muurahainen, M.D.

F. Identifications under Local Rule 116.1(C)(1)(f)

The government has no information indicating that the defendant John Bruens was the subject of an investigative identification procedure used with a witness the government anticipates calling in its case-in-chief involving a line-up, show-up, photo spread or other display of an image of the defendant. In the event that we become aware that such a procedure was used, I will advise you at that time and provide you with copies of any tangible evidence reflecting, used in or memorializing the identification procedure.

G. Exculpatory Evidence Under Local Rule 116.2(B)(1)

With respect to the government's obligation under Local Rule 116.2(B)(1) to produce "exculpatory evidence" as that term is defined in Local Rule 116.2(A), the government states as follows:

¹ Production of these tapes is more in the nature of early Jencks production.

1. The Government is producing the following items which you may perceive as tending directly to negate the defendant's guilt concerning certain counts in the indictment. *See* Local Rule 116.2(B)(1)(a): Attached as Exhibit C are interview reports from Alexis Corazon, M.D., Joseph Piperato, M.D., the polygraph report relating to Joseph Piperato as listed above, Elizabeth Elbert, M.D., and a report of interview and Grand Jury testimony of Howard Grossman, M.D.

2. The government is unaware of any information that would cast doubt on the admissibility of evidence that the government anticipates offering in its case-in-chief and that could be subject to a motion to suppress or exclude. *See* Local Rule 116.2(B)(1)(b). Out of an abundance of caution, the government hereby produces the statements made by Mary Stewart and Marc Sirockman to government agents, and also a transcription of a voice mail left by Melissa Vaughn, attached as Exhibit D.

3. Any cooperation/plea agreements, immunity orders, letters of immunity and proffer agreements are set forth below and produced in Exhibit E. *See* Local Rule 116.2(B)(c).

The government entered into a cooperation/plea agreement with Adam Stupak, a copy of which is enclosed.

The following persons were accorded immunity (by court order) in the course of this investigation:

- a. Carolyn Jordan;
- b. Todd Hudson;
- c. Jeff Lynch;
- d. Leslie Golemme;
- e. Raymond Hudgens; and
- f. Paul Furgal.

The following persons were accorded immunity (by letter) in the course of this investigation:

- a. Jeffrey Aromando;
- b. Miguel Catala;
- c. Shari Busboom Lendy;
- d. Seth Leverage;
- e. Heriberto "Ed" Parra;
- f. Konstantine Pinteris;
- g. Russell Reserva;
- h. Tara Strawbridge;
- i. Christine Wanke, M.D.

The following persons entered into proffer agreements with the United States Attorney:

- a. Hamilton Baiden;
- b. Nicholaos Bellos, M.D.;
- c. Daniel Berger, M.D.;
- d. Thomas Browning;
- e. Kathleen Canavan;
- f. Miguel Catala;
- g. Michael Hall;
- h. Lawrence Higgins, M.D.;
- i. Michael Hopkins;
- j. Todd Hudson;
- k. Howard Grossman, M.D.;
- l. Shari Busboom Lendy;
- m. Seth Leverage;
- n. Rudolph J. Liedtke;
- o. Michael Moynihan;
- p. Heriberto "Ed" Parra;
- q. Konstantine Pinteris;
- r. Joseph Piperato, M.D.; and
- s. Rick Schwalbert.

The government declines to disclose at this time promises to certain other witnesses and will file herewith a Motion for Protective Order with respect to any such promise, reward or inducement. *See* Local Rule 116.6.

4. The government is unaware that any named case-in-chief witness has any criminal record, with the exception of Raymond Hudgens and Michael McKenna, whose records are attached as Exhibit F. *See* Local Rule 116.2(B)(1)(d).

5. The government is presently unaware that any of its named case-in-chief witnesses has any criminal cases pending. *See* Local Rule 116.2(B)(1)(e).

6. No identification procedure was used in this case. *See* Local Rule 116.2(B)(1)(f).

The government notes that it has made all of the information referred to in sections 1, 3 and 4, *supra*, available to the defendant, and to the extent it contains any exculpatory information, it has been produced. The government also notes that it is aware of evidence that certain physicians not named in the Indictment attended the Cannes conference at Serono's expense. The evidence indicates that the circumstances of these certain doctors are distinct from those doctors charged in the Indictment and does not view this evidence as exculpatory. The government notes its continuing obligation to supplement this discovery.

H. Other Matters

Some of the documents and information to be disclosed contains patient identifiable information. The government will file a motion for a protective order regarding use of this information, a copy of which will be served upon you.

Rule 404(b) Notice: The government may offer evidence that defendant engaged in a scheme to offer or pay kickbacks to physicians not specifically referred to in the Indictment. This evidence will include both testimony and documents (which have either been produced or will be made available per this letter to you). The government considers this evidence directly relevant to the conspiracy alleged in Count 1 of the Indictment. Should the Court disagree with the government, the government may offer this evidence pursuant to Fed. R. Evid. 404(b) in order to establish, among other things, intent, knowledge, plan, and absence of mistake or accident.

The government is aware of its continuing duty to disclose newly discovered additional evidence or material that is subject to discovery or inspection under Local Rules 116.1 and 116.2(B)(1) and Rule 16 of the Federal Rules of Criminal Procedure.

The government requests reciprocal discovery pursuant to Rule 16(b) of the Federal Rules of Criminal Procedure and Local Rule 116.1(D).

Please call the undersigned Assistant U.S. Attorney at (617) 748-3290 if you have any questions.

Very truly yours,

MICHAEL J. SULLIVAN
United States Attorney

By:


MARY ELIZABETH CARMODY
Assistant U.S. Attorney

Enclosures

cc: United States District Judge Joseph L. Tauro
(w/o enclosures)(Filed Under Seal)

United States Magistrate Judge Marianne B. Bowler
(w/o enclosures) (Filed Under Seal)



U.S. Department of Justice

Michael J. Sullivan
United States Attorney
District of Massachusetts

Main Reception: (617) 748-3100

John Joseph Moakley United States Courthouse
1 Courthouse Way
Suite 9200
Boston, Massachusetts 02210

May 31, 2005

VIA FACSIMILE AND FEDERAL EXPRESS

Mark Berman, Esq.
Gibbons, Del Deo, Dolan, Griffinger & Vecchione
One Riverfront Plaza
Newark, NJ 07102-5496

Re: United States v. Mary Stewart, et al.
Criminal No. 05-10102-JLT

Dear Mr. Berman:

Pursuant to Fed. R. Crim. P. 16 and Rules 116.1(C) and 116.2 of the Local Rules of the United States District Court for the District of Massachusetts, the government provides the following automatic discovery in the above-referenced case:

A. Rule 16 Materials

1. Statements of Defendant under Rule 16 (a)(1)(A) and (B)

a. Oral Statements

Enclosed as Attachment 1 is a report of the oral statements made by the defendant Stewart in response to interrogation by a person then known to the defendant to be a government agent which the government intends to use at trial.

b. Written Statements

The documentary evidence that is being produced herewith and/or which is available for inspection and copying as described below contain written statements of the defendant, including without limitation memoranda, handwritten notes, letters and e-mails.

c. Recorded Statements

There are no relevant recorded statements of the defendant Mary Stewart in the possession, custody or control of the government, which are known to the attorney for the government.

d. Grand Jury Testimony of the Defendant

The defendant Mary Stewart did not testify before a grand jury in relation to this case.

2. Defendant's Prior Record under Rule 16 (a)(1)(D)

The government is unaware at this time of any prior criminal record of the defendant Mary Stewart.

3. Documents and Tangible Objects under Rule 16(a)(1)(E)

Enclosed are indices/descriptions (and where noted, copies) of books, papers, documents and tangible items, that are within the possession, custody or control of the government, and which are material to the preparation of the defendant's defense or are intended for use by the government as evidence in chief at the trial of this case, or were obtained from or belong to the defendant:

- a. Documents, items and tangible objects, including originals, produced by Serono, Inc. (a copy of the Index of documents produced by the Serono is enclosed herewith as Exhibit A);
- b. Documents, items and tangible objects relating to the allegations of this Indictment that were produced by companies and/or individuals other than Serono, including but not limited to documentary, financial, patient and other records relating to the Cannes conference and specifically including appointment books and records of patient appointments from Drs. Alexis Corazon and Howard Grossman, data from Dr. Grossman's palm pilot; and an electronic printout of patients for Dr. Joseph Piperato,
- c. Documents, items and tangible objects relating to travel arrangements and financial payments to physicians obtained from companies and/or individuals other than Serono;
- d. Data re: Serostim prescriptions and Medicaid claims paid from Serono, Medicaid agencies and third-party payors;
- e. Records of patients of the doctors who were invited to the Cannes conference but did not attend, and those doctors who attended the Cannes conference;
- f. Documents from pharmacies, wholesalers and data collection companies relating to Serostim prescriptions; and
- g. Documents, items and tangible objects produced by Serono employees relating to

their employment, including but not limited to mugs, masks, videos, pictures, and the like.

All of the documents, items and tangible objects identified above are available for review at the United States Attorney's Office in Boston. The originals may be inspected by contacting the undersigned Assistant U.S. Attorney and making an appointment to view the same at a mutually convenient time. Many, but not all, of the documents described will be made available in electronic format by providing the government with an external USB hard drive with 80 GB of storage capacity.

In addition, documents from the files of the U.S. Food and Drug Administration ("FDA") relating to the approval and promotion of Serostim, the Orphan Drug Status, and relating to the clearance of the Bioelectrical Impedance Analysis ("BIA") device and related software are located at various offices of the FDA in Maryland and Michigan. These documents are unrelated to this Indictment and are not being produced at this time.

4. Reports of Examinations and Tests under Rule 16 (a)(1)(F)

Upon your request, and agreement to provide reciprocal discovery, we will provide you with copies of the following:

- a. Report of latent hand-writing analysis by the Federal Bureau of Investigation of the daily appointment book of Dr. Howard Grossman; and
- b. Report of the Polygraph Examination of Dr. Joseph Piperato.

These documents and related items and tangible objects are available for review at the United States Attorney's Office in Boston. The originals may be inspected by contacting the undersigned Assistant U.S. Attorney and making an appointment to view the same at a mutually convenient time.

B. Search Materials under Local Rule 116.1(C)(1)(b)

No search warrants were obtained in connection with investigation of the charges contained in the indictment in this case.

C. Electronic Surveillance under Local Rule 116.1(C)(1)(c)

No oral, wire, or electronic communications of the defendant as defined in 18 U.S.C. § 2510 were intercepted relating to the charges in the indictment.

D. Consensual Interceptions under Local Rule 116.1(C)(1)(d)

Out of an excess of caution, because the government does not believe at this stage it will offer any such evidence at trial, below is a written description of interceptions (as the term "intercept" is defined in 18 U.S.C. § 2510(4)) of oral communications, relating to the charges contained in the indictment made with consent of one of the parties to the communication ("consensual interceptions"), which the government intends to offer as evidence in its case-in-chief is set forth below¹:

June 6, 2003 tape of conversation between Dr. Ralph Liporace and Raymond Hudgens. A transcription of the tape is attached as Exhibit B. The tape recording is available for inspection at the United States Attorney's Office in Boston by making an appointment with the undersigned Assistant U.S. Attorney at a mutually convenient time.

The government is also in possession of a tape recording of an August 15, 2000 conference call between and among Sero Regional Directors including Adam Stupak, Melissa Vaughn, David Sawin, Angela Willis, David Flowers, Vance Dougherty, and Steve Richards. This conference call post-dates and is unrelated to any of the allegation in this Indictment and is not being produced at this time because it is not required by Local Rule 116.1(C)(1)(d)(i). Nevertheless, the original tape recording is available for inspection at the United States Attorney's Office in Boston by making an appointment with the undersigned Assistant U.S. Attorney at a mutually convenient time.

E. Unindicted Coconspirators under Local Rule 116.1(C)(1)(e)

The following are unindicted co-conspirators as charged in the indictment.

Ellen Frank, Jeffrey Hart, Richard Azulay, Raymond Hudgens, Adam Whitehurst, Joseph Piperato, M.D., Jeffrey Aromando, Alexis Corazon, M.D., Konstantine Pinteris, Jeffrey Lynch, Howard Grossman, M.D., Jeffrey Wallach, M.D.(now deceased); Susan Womble and Norma Muurahainen, M.D.

F. Identifications under Local Rule 116.1(C)(1)(f)

The government has no information indicating that the defendant John Bruens was the subject of an investigative identification procedure used with a witness the government anticipates calling in its case-in-chief involving a line-up, show-up, photo spread or other display of an image of the defendant. In the event that we become aware that such a procedure was used, I will advise you at that time and provide you with copies of any tangible evidence reflecting, used in or memorializing the identification procedure.

G. Exculpatory Evidence Under Local Rule 116.2(B)(1)

¹ Production of these tapes is more in the nature of early Jencks production.

With respect to the government's obligation under Local Rule 116.2(B)(1) to produce "exculpatory evidence" as that term is defined in Local Rule 116.2(A), the government states as follows:

1. The Government is producing the following items which you may perceive as tending directly to negate the defendant's guilt concerning certain counts in the indictment. *See* Local Rule 116.2(B)(1)(a): Attached as Exhibit C are interview reports from Alexis Corazon, M.D., Joseph Piperato, M.D., the polygraph report relating to Joseph Piperato as listed above, Elizabeth Elbert, M.D., and a report of interview and Grand Jury testimony of Howard Grossman, M.D.

2. The government is unaware of any information that would cast doubt on the admissibility of evidence that the government anticipates offering in its case-in-chief and that could be subject to a motion to suppress or exclude. *See* Local Rule 116.2(B)(1)(b). Out of an abundance of caution, the government hereby produces the statements made by Mary Stewart and Marc Sirockman to government agents, and also a transcription of a voice mail left by Melissa Vaughn, attached as Exhibit D.

3. Any cooperation/plea agreements, immunity orders, letters of immunity and proffer agreements are set forth below and produced in Exhibit E. *See* Local Rule 116.2(B)(c).

The government entered into a cooperation/plea agreement with Adam Stupak, a copy of which is enclosed.

The following persons were accorded immunity (by court order) in the course of this investigation:

- a. Carolyn Jordan;
- b. Todd Hudson;
- c. Jeff Lynch;
- d. Leslie Golemme;
- e. Raymond Hudgens; and
- f. Paul Furgal.

The following persons were accorded immunity (by letter) in the course of this investigation:

- a. Jeffrey Aromando;
- b. Miguel Catala;
- c. Shari Busboom Lendy;
- d. Seth Leverance;
- e. Heriberto "Ed" Parra;
- f. Konstantine Pinteris;
- g. Russell Reserva;
- h. Tara Strawbridge;

- i. Christine Wanke, M.D.

The following persons entered into proffer agreements with the United States Attorney:

- a. Hamilton Baiden;
- b. Nicholas Bellos, M.D.;
- c. Daniel Berger, M.D.;
- d. Thomas Browning;
- e. Kathleen Canavan;
- f. Miguel Catala;
- g. Michael Hall;
- h. Lawrence Higgins, M.D.;
- i. Michael Hopkins;
- j. Todd Hudson;
- k. Howard Grossman, M.D.;
- l. Shari Busboom Lendy;
- m. Seth Leverance;
- n. Rudolph J. Liedtke;
- o. Michael Moynihan;
- p. Heriberto "Ed" Parra;
- q. Konstantine Pinteris;
- r. Joseph Piperato, M.D.; and
- s. Rick Schwalbert.

The government declines to disclose at this time promises to certain other witnesses and will file herewith a Motion for Protective Order with respect to any such promise, reward or inducement. *See* Local Rule 116.6.

4. The government is unaware that any named case-in-chief witness has any criminal record, with the exception of Raymond Hudgens and Michael McKenna, whose records are attached as Exhibit F. *See* Local Rule 116.2(B)(1)(d).

5. The government is presently unaware that any of its named case-in-chief witnesses has any criminal cases pending. *See* Local Rule 116.2(B)(1)(e).

6. No identification procedure was used in this case. *See* Local Rule 116.2(B)(1)(f).

The government notes that it has made all of the information referred to in sections 1, 3 and 4, *supra*, available to the defendant, and to the extent it contains any exculpatory information, it has been produced. The government also notes that it is aware of evidence that certain physicians not named in the Indictment attended the Cannes conference at Serono's expense. The evidence indicates that the circumstances of these certain doctors are distinct from those doctors charged in the Indictment and does not view this evidence as exculpatory. The

government notes its continuing obligation to supplement this discovery.

H. Other Matters

Some of the documents and information to be disclosed contains patient identifiable information. The government will file a motion for a protective order regarding use of this information, a copy of which will be served upon you.

Rule 404(b) Notice: The government may offer evidence that defendant engaged in a scheme to offer or pay kickbacks to physicians not specifically referred to in the Indictment. This evidence will include both testimony and documents (which have either been produced or will be made available per this letter to you). The government considers this evidence directly relevant to the conspiracy alleged in Count 1 of the Indictment. Should the Court disagree with the government, the government may offer this evidence pursuant to Fed. R. Evid. 404(b) in order to establish, among other things, intent, knowledge, plan, and absence of mistake or accident.

The government is aware of its continuing duty to disclose newly discovered additional evidence or material that is subject to discovery or inspection under Local Rules 116.1 and 116.2(B)(1) and Rule 16 of the Federal Rules of Criminal Procedure.

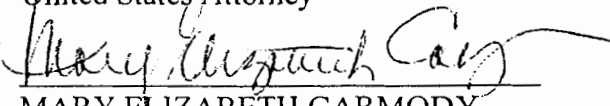
The government requests reciprocal discovery pursuant to Rule 16(b) of the Federal Rules of Criminal Procedure and Local Rule 116.1(D).

Please call the undersigned Assistant U.S. Attorney at (617) 748-3290 if you have any questions.

Very truly yours,

MICHAEL J. SULLIVAN
United States Attorney

By:


MARY ELIZABETH CARMODY
Assistant U.S. Attorney

Enclosures

cc: United States District Judge Joseph L. Tauro
(w/o enclosures)(Filed Under Seal)

United States Magistrate Judge Marianne B. Bowler
(w/o enclosures) (Filed Under Seal)



U.S. Department of Justice

Michael J. Sullivan
United States Attorney
District of Massachusetts

Main Reception: (617) 748-3100

John Joseph Moakley United States Courthouse
1 Courthouse Way
Suite 9200
Boston, Massachusetts 02210

May 31, 2005

VIA FACSIMILE AND FEDERAL EXPRESS

Adam S. Hoffinger, Esq.
Piper Rudnick
1200 Nineteenth Street, NW
Washington, DC 20036-2430

Re: United States v. Melissa Vaughn, et al.
Criminal No. 05-10102-JLT

Dear Mr. Hoffinger:

Pursuant to Fed. R. Crim. P. 16 and Rules 116.1(C) and 116.2 of the Local Rules of the United States District Court for the District of Massachusetts, the government provides the following automatic discovery in the above-referenced case:

A. Rule 16 Materials

1. Statements of Defendant under Rule 16 (a)(1)(A) and (B)

a. Oral Statements

The government is unaware of any oral statements made by the defendant Vaughn in response to interrogation by a person then known to the defendant to be a government agent which the government intends to use at trial.

b. Written Statements

The documentary evidence that is being produced herewith and/or which is available for inspection and copying as described below contain written statements of the defendant, including without limitation memoranda, handwritten notes, letters and e-mails.

c. Recorded Statements

There are no relevant recorded statements of the defendant Melissa Vaughn in the possession, custody or control of the government, which are known to the attorney for the government. There is a recorded statement of the defendant that is described in section 4(D) below.

d. Grand Jury Testimony of the Defendant

The defendant Melissa Vaughn did not testify before a grand jury in relation to this case.

2. Defendant's Prior Record under Rule 16 (a)(1)(D)

The government is unaware at this time of any prior criminal record of the defendant Melissa Vaughn.

3. Documents and Tangible Objects under Rule 16(a)(1)(E)

Enclosed are indices/descriptions (and where noted, copies) of books, papers, documents and tangible items, that are within the possession, custody or control of the government, and which are material to the preparation of the defendant's defense or are intended for use by the government as evidence in chief at the trial of this case, or were obtained from or belong to the defendant:

- a. Documents, items and tangible objects, including originals, produced by Serono, Inc. (a copy of the Index of documents produced by the Serono is enclosed herewith as Exhibit A);
- b. Documents, items and tangible objects relating to the allegations of this Indictment that were produced by companies and/or individuals other than Serono, including but not limited to documentary, financial, patient and other records relating to the Cannes conference and specifically including appointment books and records of patient appointments from Drs. Alexis Corazon and Howard Grossman, data from Dr. Grossman's palm pilot; and an electronic printout of patients for Dr. Joseph Piperato,
- c. Documents, items and tangible objects relating to travel arrangements and financial payments to physicians obtained from companies and/or individuals other than Serono;
- d. Data re: Serostim prescriptions and Medicaid claims paid from Serono, Medicaid agencies and third-party payors;
- e. Records of patients of the doctors who were invited to the Cannes conference but did not attend, and those doctors who attended the Cannes conference;
- f. Documents from pharmacies, wholesalers and data collection companies relating to Serostim prescriptions; and

- g. Documents, items and tangible objects produced by Serono employees relating to their employment, including but not limited to mugs, masks, videos, pictures, and the like.

All of the documents, items and tangible objects identified above are available for review at the United States Attorney's Office in Boston. The originals may be inspected by contacting the undersigned Assistant U.S. Attorney and making an appointment to view the same at a mutually convenient time. Many, but not all, of the documents described will be made available in electronic format by providing the government with an external USB hard drive with 80 GB of storage capacity.

In addition, documents from the files of the U.S. Food and Drug Administration ("FDA") relating to the approval and promotion of Serostim, the Orphan Drug Status, and relating to the clearance of the Bioelectrical Impedance Analysis ("BIA") device and related software are located at various offices of the FDA in Maryland and Michigan. These documents are unrelated to this Indictment and are not being produced at this time.

4. Reports of Examinations and Tests under Rule 16 (a)(1)(F)

Upon your request, and agreement to provide reciprocal discovery, we will provide you with copies of the following:

- a. Report of latent hand-writing analysis by the Federal Bureau of Investigation of the daily appointment book of Dr. Howard Grossman; and
- b. Report of the Polygraph Examination of Dr. Joseph Piperato.

These documents and related items and tangible objects are available for review at the United States Attorney's Office in Boston. The originals may be inspected by contacting the undersigned Assistant U.S. Attorney and making an appointment to view the same at a mutually convenient time.

B. Search Materials under Local Rule 116.1(C)(1)(b)

No search warrants were obtained in connection with investigation of the charges contained in the indictment in this case.

C. Electronic Surveillance under Local Rule 116.1(C)(1)(c)

No oral, wire, or electronic communications of the defendant as defined in 18 U.S.C. § 2510 were intercepted relating to the charges in the indictment.

D. Consensual Interceptions under Local Rule 116.1(C)(1)(d)

Out of an excess of caution, because the government does not believe at this stage it will offer any such evidence at trial, below is a written description of interceptions (as the term "intercept" is defined in 18 U.S.C. § 2510(4)) of oral communications, relating to the charges contained in the indictment made with consent of one of the parties to the communication ("consensual interceptions"), which the government intends to offer as evidence in its case-in-chief is set forth below¹:

June 6, 2003 tape of conversation between Dr. Ralph Liporace and Raymond Hudgens. A transcription of the tape is attached as Exhibit B. The tape recording is available for inspection at the United States Attorney's Office in Boston by making an appointment with the undersigned Assistant U.S. Attorney at a mutually convenient time.

The government is also in possession of a tape recording of an August 15, 2000 conference call between and among Sero Regional Directors including Adam Stupak, Melissa Vaughn, David Sawin, Angela Willis, David Flowers, Vance Dougherty, and Steve Richards. This conference call post-dates and is unrelated to any of the allegation in this Indictment and is not being produced at this time because it is not required by Local Rule 116.1(C)(1)(d)(i). Nevertheless, the original tape recording is available for inspection at the United States Attorney's Office in Boston by making an appointment with the undersigned Assistant U.S. Attorney at a mutually convenient time.

E. Unindicted Coconspirators under Local Rule 116.1(C)(1)(e)

The following are unindicted co-conspirators as charged in the indictment.

Ellen Frank, Jeffrey Hart, Richard Azulay, Raymond Hudgens, Adam Whitehurst, Joseph Piperato, M.D., Jeffrey Aromando, Alexis Corazon, M.D., Konstantine Pinteris, Jeffrey Lynch, Howard Grossman, M.D., Jeffrey Wallach, M.D.(now deceased); Susan Womble and Norma Muurahainen, M.D.

F. Identifications under Local Rule 116.1(C)(1)(f)

The government has no information indicating that the defendant John Bruens was the subject of an investigative identification procedure used with a witness the government anticipates calling in its case-in-chief involving a line-up, show-up, photo spread or other display of an image of the defendant. In the event that we become aware that such a procedure was used, I will advise you at that time and provide you with copies of any tangible evidence reflecting, used in or memorializing the identification procedure.

G. Exculpatory Evidence Under Local Rule 116.2(B)(1)

¹ Production of these tapes is more in the nature of early Jencks production.

With respect to the government's obligation under Local Rule 116.2(B)(1) to produce "exculpatory evidence" as that term is defined in Local Rule 116.2(A), the government states as follows:

1. The Government is producing the following items which you may perceive as tending directly to negate the defendant's guilt concerning certain counts in the indictment. *See* Local Rule 116.2(B)(1)(a): Attached as Exhibit C are interview reports from Alexis Corazon, M.D., Joseph Piperato, M.D., the polygraph report relating to Joseph Piperato as listed above, Elizabeth Elbert, M.D., and a report of interview and Grand Jury testimony of Howard Grossman, M.D.

2. The government is unaware of any information that would cast doubt on the admissibility of evidence that the government anticipates offering in its case-in-chief and that could be subject to a motion to suppress or exclude. *See* Local Rule 116.2(B)(1)(b). Out of an abundance of caution, the government hereby produces the statements made by Mary Stewart and Marc Sirockman to government agents, and also a transcription of a voice mail left by Melissa Vaughn, attached as Exhibit D.

3. Any plea agreements, immunity orders, letters of immunity and proffer agreements are set forth below and produced as Exhibit E. *See* Local Rule 116.2(B)(c).

The government entered into a cooperation/plea agreement with Adam Stupak, a copy of which is enclosed.

The following persons were accorded immunity (by court order) in the course of this investigation:

- a. Carolyn Jordan;
- b. Todd Hudson;
- c. Jeff Lynch;
- d. Leslie Golemme;
- e. Raymond Hudgens; and
- f. Paul Furgal.

The following persons were accorded immunity (by letter) in the course of this investigation:

- a. Jeffrey Aromando;
- b. Miguel Catala;
- c. Shari Busboom Lendy;
- d. Seth Leverance;
- e. Heriberto "Ed" Parra;
- f. Konstantine Pinteris;
- g. Russell Reserva;
- h. Tara Strawbridge;

- i. Christine Wanke, M.D.

The following persons entered into proffer agreements with the United States Attorney:

- a. Hamilton Baiden;
- b. Nicholaos Bellos, M.D.;
- c. Daniel Berger, M.D.;
- d. Thomas Browning;
- e. Kathleen Canavan;
- f. Miguel Catala;
- g. Michael Hall;
- h. Lawrence Higgins, M.D.;
- i. Michael Hopkins;
- j. Todd Hudson;
- k. Howard Grossman, M.D.;
- l. Shari Busboom Lendy;
- m. Seth Leverance;
- n. Rudolph J. Liedtke;
- o. Michael Moynihan;
- p. Heriberto "Ed" Parra;
- q. Konstantine Pinteris;
- r. Joseph Piperato, M.D.; and
- s. Rick Schwalbert.

The government declines to disclose at this time promises to certain other witnesses and will file herewith a Motion for Protective Order with respect to any such promise, reward or inducement. *See* Local Rule 116.6.

4. The government is unaware that any named case-in-chief witness has any criminal record, with the exception of Raymond Hudgens and Michael McKenna, whose records are attached as Exhibit F. *See* Local Rule 116.2(B)(1)(d).

5. The government is presently unaware that any of its named case-in-chief witnesses has any criminal cases pending. *See* Local Rule 116.2(B)(1)(e).

6. No identification procedure was used in this case. *See* Local Rule 116.2(B)(1)(f).

The government notes that it has made all of the information referred to in sections 1, 3 and 4, *supra*, available to the defendant, and to the extent it contains any exculpatory information, it has been produced. The government also notes that it is aware of evidence that certain physicians not named in the Indictment attended the Cannes conference at Serono's expense. The evidence indicates that the circumstances of these certain doctors are distinct from those doctors charged in the Indictment and does not view this evidence as exculpatory. The

government notes its continuing obligation to supplement this discovery.

H. Other Matters

Some of the documents and information to be disclosed contains patient identifiable information. The government will file a motion for a protective order regarding use of this information, a copy of which will be served upon you.

Rule 404(b) Notice: The government may offer evidence that defendant engaged in a scheme to offer or pay kickbacks to physicians not specifically referred to in the Indictment. This evidence will include both testimony and documents (which have either been produced or will be made available per this letter to you). The government considers this evidence directly relevant to the conspiracy alleged in Count 1 of the Indictment. Should the Court disagree with the government, the government may offer this evidence pursuant to Fed. R. Evid. 404(b) in order to establish, among other things, intent, knowledge, plan, and absence of mistake or accident.

The government is aware of its continuing duty to disclose newly discovered additional evidence or material that is subject to discovery or inspection under Local Rules 116.1 and 116.2(B)(1) and Rule 16 of the Federal Rules of Criminal Procedure.

The government requests reciprocal discovery pursuant to Rule 16(b) of the Federal Rules of Criminal Procedure and Local Rule 116.1(D).

Please call the undersigned Assistant U.S. Attorney at (617) 748-3290 if you have any questions.

Very truly yours,

MICHAEL J. SULLIVAN
United States Attorney

By:


MARY ELIZABETH CARMODY
Assistant U.S. Attorney

Enclosures

cc: United States District Judge Joseph L. Tauro
(w/o enclosures)(Filed Under Seal)

United States Magistrate Judge Marianne B. Bowler
(w/o enclosures) (Filed Under Seal)



U.S. Department of Justice

Michael J. Sullivan
United States Attorney
District of Massachusetts

Main Reception: (617) 748-3100

John Joseph Moakley United States Courthouse
1 Courthouse Way
Suite 9200
Boston, Massachusetts 02210

May 31, 2005

VIA FACSIMILE AND FEDERAL EXPRESS

Attorney Tracy A. Miner
Mintz, Levin, Cohn, Ferris, Glovsky & Popeo, LLP
One Financial Center
Boston, MA 02111

Re: United States v. Mark Sirockman, et al.
Criminal No. 05-10102-JLT

Dear Ms. Miner:

Pursuant to Fed. R. Crim. P. 16 and Rules 116.1(C) and 116.2 of the Local Rules of the United States District Court for the District of Massachusetts, the government provides the following automatic discovery in the above-referenced case:

A. Rule 16 Materials

1. Statements of Defendant under Rule 16 (a)(1)(A) and (B)

a. Oral Statements

Enclosed is a report of the oral statements made by the defendant Sirockman in response to interrogation by a person then known to the defendant to be a government agent (Investigators from the State of New Jersey) which the government intends to use at trial.

b. Written Statements

The documentary evidence that is being produced herewith and/or which is available for inspection and copying as described below contain written statements of the defendant, including without limitation memoranda, handwritten notes, letters and e-mails.

c. Recorded Statements

There are no relevant recorded statements of the defendant Marc Sirockman in the possession, custody or control of the government, which are known to the attorney for the government.

d. Grand Jury Testimony of the Defendant

The defendant Marc Sirockman did not testify before a grand jury in relation to this case.

2. Defendant's Prior Record under Rule 16 (a)(1)(D)

The government is unaware at this time of any prior criminal record of the defendant Marc Sirockman.

3. Documents and Tangible Objects under Rule 16(a)(1)(E)

Enclosed are indices/descriptions (and where noted, copies) of books, papers, documents and tangible items, that are within the possession, custody or control of the government, and which are material to the preparation of the defendant's defense or are intended for use by the government as evidence in chief at the trial of this case, or were obtained from or belong to the defendant:

- a. Documents, items and tangible objects, including originals, produced by Serono, Inc. (a copy of the Index of documents produced by the Serono is enclosed herewith as Exhibit A);
- b. Documents, items and tangible objects relating to the allegations of this Indictment that were produced by companies and/or individuals other than Serono, including but not limited to documentary, financial, patient and other records relating to the Cannes conference and specifically including appointment books and records of patient appointments from Drs. Alexis Corazon and Howard Grossman, data from Dr. Grossman's palm pilot; and an electronic printout of patients for Dr. Joseph Piperato,
- c. Documents, items and tangible objects relating to travel arrangements and financial payments to physicians obtained from companies and/or individuals other than Serono;
- d. Data re: Serostim prescriptions and Medicaid claims paid from Serono, Medicaid agencies and third-party payors;
- e. Records of patients of the doctors who were invited to the Cannes conference but did not attend, and those doctors who attended the Cannes conference;
- f. Documents from pharmacies, wholesalers and data collection companies relating to Serostim prescriptions; and
- g. Documents, items and tangible objects produced by Serono employees relating to

their employment, including but not limited to mugs, masks, videos, pictures, and the like.

All of the documents, items and tangible objects identified above are available for review at the United States Attorney's Office in Boston. The originals may be inspected by contacting the undersigned Assistant U.S. Attorney and making an appointment to view the same at a mutually convenient time. Many, but not all, of the documents described will be made available in electronic format by providing the government with an external USB hard drive with 80 GB of storage capacity.

In addition, documents from the files of the U.S. Food and Drug Administration ("FDA") relating to the approval and promotion of Serostim, the Orphan Drug Status, and relating to the clearance of the Bioelectrical Impedance Analysis ("BIA") device and related software are located at various offices of the FDA in Maryland and Michigan. These documents are unrelated to this Indictment and are not being produced at this time.

4. Reports of Examinations and Tests under Rule 16 (a)(1)(F)

Upon your request, and agreement to provide reciprocal discovery, we will provide you with copies of the following:

- a. Report of latent hand-writing analysis by the Federal Bureau of Investigation of the daily appointment book of Dr. Howard Grossman; and
- b. Report of the Polygraph Examination of Dr. Joseph Piperato.

These documents and related items and tangible objects are available for review at the United States Attorney's Office in Boston. The originals may be inspected by contacting the undersigned Assistant U.S. Attorney and making an appointment to view the same at a mutually convenient time.

B. Search Materials under Local Rule 116.1(C)(1)(b)

No search warrants were obtained in connection with investigation of the charges contained in the indictment in this case.

C. Electronic Surveillance under Local Rule 116.1(C)(1)(c)

No oral, wire, or electronic communications of the defendant as defined in 18 U.S.C. § 2510 were intercepted relating to the charges in the indictment.

D. Consensual Interceptions under Local Rule 116.1(C)(1)(d)

Out of an excess of caution, because the government does not believe at this stage it will offer any such evidence at trial, below is a written description of interceptions (as the term "intercept" is defined in 18 U.S.C. § 2510(4)) of oral communications, relating to the charges contained in the indictment made with consent of one of the parties to the communication ("consensual interceptions"), which the government intends to offer as evidence in its case-in-chief is set forth below¹:

June 6, 2003 tape of conversation between Dr. Ralph Liporace and Raymond Hudgens. A transcription of the tape is attached as Exhibit B. The tape recording is available for inspection at the United States Attorney's Office in Boston by making an appointment with the undersigned Assistant U.S. Attorney at a mutually convenient time.

The government is also in possession of a tape recording of an August 15, 2000 conference call between and among Sero Regional Directors including Adam Stupak, Melissa Vaughn, David Sawin, Angela Willis, David Flowers, Vance Dougherty, and Steve Richards. This conference call post-dates and is unrelated to any of the allegation in this Indictment and is not being produced at this time because it is not required by Local Rule 116.1(C)(1)(d)(i). Nevertheless, the original tape recording is available for inspection at the United States Attorney's Office in Boston by making an appointment with the undersigned Assistant U.S. Attorney at a mutually convenient time.

E. Unindicted Coconspirators under Local Rule 116.1(C)(1)(e)

The following are unindicted co-conspirators as charged in the indictment.

Ellen Frank, Jeffrey Hart, Richard Azulay, Raymond Hudgens, Adam Whitehurst, Joseph Piperato, M.D., Jeffrey Aromando, Alexis Corazon, M.D., Konstantine Pinteris, Jeffrey Lynch, Howard Grossman, M.D., Jeffrey Wallach, M.D.(now deceased); Susan Womble and Norma Muurahainen, M.D.

F. Identifications under Local Rule 116.1(C)(1)(f)

The government has no information indicating that the defendant John Bruens was the subject of an investigative identification procedure used with a witness the government anticipates calling in its case-in-chief involving a line-up, show-up, photo spread or other display of an image of the defendant. In the event that we become aware that such a procedure was used, I will advise you at that time and provide you with copies of any tangible evidence reflecting, used in or memorializing the identification procedure.

G. Exculpatory Evidence Under Local Rule 116.2(B)(1)

¹ Production of these tapes is more in the nature of early Jencks production.

With respect to the government's obligation under Local Rule 116.2(B)(1) to produce "exculpatory evidence" as that term is defined in Local Rule 116.2(A), the government states as follows:

1. The Government is producing the following items which you may perceive as tending directly to negate the defendant's guilt concerning certain counts in the indictment. *See* Local Rule 116.2(B)(1)(a): Attached as Exhibit C are interview reports from Alexis Corazon, M.D., Joseph Piperato, M.D., the polygraph report relating to Joseph Piperato as listed above, Elizabeth Elbert, M.D., and a report of interview and Grand Jury testimony of Howard Grossman, M.D.

2. The government is unaware of any information that would cast doubt on the admissibility of evidence that the government anticipates offering in its case-in-chief and that could be subject to a motion to suppress or exclude. *See* Local Rule 116.2(B)(1)(b). Out of an abundance of caution, the government hereby produces the statements made by Mary Stewart and Marc Sirockman to government agents, and also a transcription of a voice mail left by Melissa Vaughn, attached as Exhibit D.

3. Any cooperation/plea agreements, immunity orders, letters of immunity and proffer agreements are set forth below and produced in Exhibit E. *See* Local Rule 116.2(B)(c).

The government entered into a cooperation/plea agreement with Adam Stupak, a copy of which is enclosed.

The following persons were accorded immunity (by court order) in the course of this investigation:

- a. Carolyn Jordan;
- b. Todd Hudson;
- c. Jeff Lynch;
- d. Leslie Golemme;
- e. Raymond Hudgens; and
- f. Paul Furgal.

The following persons were accorded immunity (by letter) in the course of this investigation:

- a. Jeffrey Aromando;
- b. Miguel Catala;
- c. Shari Busboom Lendy;
- d. Seth Leverance;
- e. Heriberto "Ed" Parra;
- f. Konstantine Pinteris;
- g. Russell Reserva;
- h. Tara Strawbridge;

- i. Christine Wanke, M.D.

The following persons entered into proffer agreements with the United States Attorney:

- a. Hamilton Baiden;
- b. Nicholas Bellos, M.D.;
- c. Daniel Berger, M.D.;
- d. Thomas Browning;
- e. Kathleen Canavan;
- f. Miguel Catala;
- g. Michael Hall;
- h. Lawrence Higgins, M.D.;
- i. Michael Hopkins;
- j. Todd Hudson;
- k. Howard Grossman, M.D.;
- l. Shari Busboom Lendy;
- m. Seth Leverance;
- n. Rudolph J. Liedtke;
- o. Michael Moynihan;
- p. Heriberto "Ed" Parra;
- q. Konstantine Pinteris;
- r. Joseph Piperato, M.D.; and
- s. Rick Schwalbert.

The government declines to disclose at this time promises to certain other witnesses and will file herewith a Motion for Protective Order with respect to any such promise, reward or inducement. *See* Local Rule 116.6.

4. The government is unaware that any named case-in-chief witness has any criminal record, with the exception of Raymond Hudgens and Michael McKenna, whose records are attached as Exhibit F. *See* Local Rule 116.2(B)(1)(d).

5. The government is presently unaware that any of its named case-in-chief witnesses has any criminal cases pending. *See* Local Rule 116.2(B)(1)(e).

6. No identification procedure was used in this case. *See* Local Rule 116.2(B)(1)(f).

The government notes that it has made all of the information referred to in sections 1, 3 and 4, *supra*, available to the defendant, and to the extent it contains any exculpatory information, it has been produced. The government also notes that it is aware of evidence that certain physicians not named in the Indictment attended the Cannes conference at Serono's expense. The evidence indicates that the circumstances of these certain doctors are distinct from those doctors charged in the Indictment and does not view this evidence as exculpatory. The

government notes its continuing obligation to supplement this discovery.

H. Other Matters

Some of the documents and information to be disclosed contains patient identifiable information. The government will file a motion for a protective order regarding use of this information, a copy of which will be served upon you.

Rule 404(b) Notice: The government may offer evidence that defendant engaged in a scheme to offer or pay kickbacks to physicians not specifically referred to in the Indictment. This evidence will include both testimony and documents (which have either been produced or will be made available per this letter to you). The government considers this evidence directly relevant to the conspiracy alleged in Count 1 of the Indictment. Should the Court disagree with the government, the government may offer this evidence pursuant to Fed. R. Evid. 404(b) in order to establish, among other things, intent, knowledge, plan, and absence of mistake or accident.

The government is aware of its continuing duty to disclose newly discovered additional evidence or material that is subject to discovery or inspection under Local Rules 116.1 and 116.2(B)(1) and Rule 16 of the Federal Rules of Criminal Procedure.

The government requests reciprocal discovery pursuant to Rule 16(b) of the Federal Rules of Criminal Procedure and Local Rule 116.1(D).

Please call the undersigned Assistant U.S. Attorney at (617) 748-3290 if you have any questions.

Very truly yours,

MICHAEL J. SULLIVAN
United States Attorney

By:


MARY ELIZABETH CARMODY
Assistant U.S. Attorney

Enclosures

cc: United States District Judge Joseph L. Tauro
(w/o enclosures)(Filed Under Seal)

United States Magistrate Judge Marianne B. Bowler
(w/o enclosures) (Filed Under Seal)

Index of Serono Documents

(last updated on May 31, 2005)

<u>Box</u>	<u>IKON Sticker Notes</u>	<u>Box Description</u>
R-001	Copy entire box	R-1
R-002	Copy binders tabbed	R-2
R-003	Copy entire box	R-3
R-004	Copy entire box	R-4
R-005	Copy entire box	R-5
R-006		R-6
R-007	Copy entire box	R-7
R-008	Copy entire box (5/20/04) Sharon Moorefield – copy all in color	R-8
R-009	Copy entire box	R-9
R-010		R-10
R-011		R-11
R-012		R-12
R-013		R-13
R-015	Copy all except those tabbed “Do Not Copy”	Jay Mohr 1
R-016	Copy entire box	Jay Mohr 2
R-017	Copy entire box	Jay Mohr 3
R-018	Copy all except what is tabbed “Do Not Copy”	Jay Mohr 4
R-019	Copy entire box	Jay Mohr 5
R-020	Copy entire box	Jay Mohr 6
R-021	Copy entire box with the exception of three items marked “Do Not Copy”	Jay Mohr 7
R-022	Copy entire box	J. Abel #1
R-023	Copy those binders tabbed only	J. Abel #2
R-024	Copy entire box	Larry Roth #2
R-025	Copy entire box	Larry Roth #1
R-026	Copy files where indicated within box (5/20/04) Sharon Moorefield – copy all in color	1995 PINK M & IT Promo Jackets Promo Services File

<u>Box</u>	<u>IKON Sticker Notes</u>	<u>Box Description</u>
R-027	Copy entire box (do not want duplicates of any brochures/flyers in this box) (5/20/04) Sharon Moorefield – copy all in color	Serostim Mktg. Cap. + NORD Programs Pink Promo Folders
R-028	Copy files where indicated within box (5/20/04) Sharon Moorefield – copy all in color	Serostim Mktg. Pink Promo Folders 3/96 – 8/96
R-029	Copy files where indicated (5/20/04) Sharon Moorefield – copy all in color	Serostim Mktg Pink Promo Folders 8/96-9/96 8021-8050 Box 3
R-030	Copy documents where indicated (5/20/04) Sharon Moorefield – copy all in color	Serostim Mktg. Pink Promo Folders #8038 – 8059
R-031	Copy those documents tabbed (5/20/04) Sharon Moorefield – copy all in color	Serostim Mktg. Pink Promo Folders #8061 – 8094 4/97 – 9/97
R-032	Copy only what is tabbed (5/20/04) Sharon Moorefield – copy all in color	Serostim Mktg. Pink Promo Folders #8096 – 8119
R-033	Copy entire box	K. Ogar #1 Serostim Signed Bonus Plans 96-00; Bonus Backup -99
R-034	Copy entire box	K. Ogar #2
R-035	Copy entire box	S. Wilson/R. Azulay FSS/IFF/VA Pricing Files Box #1

<u>Box</u>	<u>IKON Sticker Notes</u>	<u>Box Description</u>
R-036	Copy entire box	S. Wilson/R. Azulay FSS/IFF/VA Pricing Files Box #2
R-037	Copy entire box	S. Wilson/R. Azulay Medicaid Rebate Files Box #3
R-038	Copy entire box	S. Wilson/R. Azulay Medicaid Rebate Files Box #4
R-039	Copy entire box	S. Wilson/R. Azulay Medicaid Rebate/Charge Backs Box #5
R-040	Copy entire box	S. Wilson/R. Azulay Medicaid Rebate Box #6
R-041	Copy entire box	S. Wilson/R. Azulay Medicaid Rebates Box #7
R-042	Copy entire box (except those labeled "Do Not Copy")	Box #1 Bruens /Lundy
R-043	Copy entire box	#2 Bruens/Lundy
R-044	Copy all of the box except those tabbed "Do Not Copy"	Box #3 Bruens/Lundy file
R-045	Copy entire box	#4 Bruens/Lundy
R-046	Copy entire box	Box #5 Bruens/Lundy file
R-047	Copy entire box	#6 Bruens/Lundy
R-048	Copy entire box	Box #7 Bruens/Lundy
R-049	Copy entire box	Box #8 Bruens/Lundy
R-050	Copy entire box except where indicated on particular file	Box #9 Bruens And Lundy
R-051	Copy three binders as marked	Joyce Finkelstein Box #1
R-052	Copy entire box	Joyce Finkelstein Box #2
R-053	Copy entire box	Joyce Finkelstein Box #3
R-054	Do Not Copy	Joyce Finkelstein Box #4
R-055	Do Not Copy	Joyce Finkelstein Box #5
R-056	Copy three tagged items, two binders and one bulletin with binding	Joyce Finkelstein Box #6
R-057	Copy one binder as marked	Joyce Finkelstein Box #7
R-058	Do Not Copy	Joyce Finkelstein Box #11 and #8
R-059	Copy entire box	Rick Azulay file Box #6
R-060	Copy entire box	Rick Azulay Box #2

Box	IKON Sticker Notes	Box Description
R-061	Copy entire box	Rich Azulay Box #3
R-062	Copy one folder as marked	Rick Azulay Box #4
R-063	Copy entire box	R. Azulay #5
R-064	Copy entire box	Azulay Box #1
R-065	Copy entire box	SALSA, Box 1, Site Files A-1
R-066	Copy entire box	SALSA, Box 2, Site Files, K-2
R-067		Dept. 6700 Salsa, Box 3 Veristat, Vol. 1-4
R-068		SALSA Box 4 Veristat, Vol 5-8 Dept. #6700
R-069		Dept. No. 6700; SALSA, Box 5, Veristat, Vol. 9-11 Dest. Date: 12/2008
R-070		Dept. #6700 SALSA, Box 6 Veristat, C2-5
R-071		Dept. #6700 Misc. SALSA Files/Forms (MK)
R-072	Copy entire box	SALSA Development Files
R-074	Copy one of each	Salsa Yellow Forms (45); Salsa Red Forms (25)
R-075	Copy entire box	Dept. #6700, SeronAids Phase 1, Box 1 Site Files 001-034
R-076	Copy entire box	Dept. #6700 SeronAids Phase 1, Box 2 Site Files, 035-075
R-077	Copy entire box	Dept. #6700 SeronAids Phase 1, Box 3 Site Files 076-100+
R-078	Copy entire box	Seron Aids Phase I, Box 4, Site Files, 101-130
R-079	Copy entire box	Dept. #6700 SeronAids Phase 1, Box 5 Site Files 131-163
R-080	Copy entire box	Dept. 6700 SeronAids Phase 1, Box 6, Site Files 164-200
R-081	Copy entire box	Dept. 6700 SeronAids Phase 1, Box 7, Site Files 201-230
R-082	Copy entire box	Dept. 6700 SeronAids Phase 1, Box 8, Site Files 231-266
R-083	Copy entire box	SeronAids Phase I, Box 9, Site Files 267-308
R-084		Quintiles SeronAids Reports 1997 - 2000
R-085		Q4 2000 SeronAids CRFs
R-085A		R-85A
R-086		Dept. 6700 SeronAids; Dr. Fisher Site Files
R-088	Copy entire box	Dept. No. 6700, MENA/MA 2000, Box 1/3 Expenses (ALL) Dest. Date: 12/2004
R-089	Copy entire box	Dept. No. 6700, MENA/MA 2000, Box 2/3 Expenses (ALL) Des+. Date: 12/2004
R-090	Copy entire box	Dept. No. 6700, MENA/MA 2000, Box 3/3 Expenses (ALL) Dest. Date: 12/2008

Box	IKON Sticker Notes	Box Description
R-091	Copy entire box	Dept. No. 6700, MENA Miscellaneous Financial Files (BM) Dest. Date: 12/2008
R-092		Cubicle/M. Kleintop
R-093	Copy entire box	Dept. 6700; FY 2001 Working Files (MK)
R-094	Copy entire box	ID Study 21020: Norma Muurahainen MD Phd Clinical Research Unactive Study Participants
R-096	Copy entire box	Cubicle/M. Klientop #2
R-098	Copy two flagged documents	Cubicle/M. Klientop 12/31/01 #4
R-099	Copy entire box	Larry Roth Files Box 1
R-101	Copy entire box	Docs, From Mohr/Bruens – files pulled from filing cabinet by S. Wilson
R-102	Copy entire box	Larry Roth Files Box 2
R-103	Copy entire box	R. Azulay Box #7
R-105	Copy entire box	R. Azulay Dead Files
R-106	Copy entire box	R. Azulay #10
R-107	Copy entire box	R. Azulay #13
R-108	Copy entire box	R. Azulay #9
R-109	Copy entire box	Serostim Mktg Trade Shows
R-110	Do Not Copy (5/14/04) Sharon Moorefield – copy all in color	Serostim Mktg Pink Folders Box #9 8181-8199
R-111	Copy entire box	Serostim Mktg Trade Shows
R-112	Copy entire box	Serostim Mktg Trade Shows
R-113	Do Not Copy (5/14/04) Sharon Moorefield – copy all in color	PINK FOLDERS Box #10 99-8200-00-8247 Serostim MENA
R-114	Do Not Copy (5/14/04) Sharon Moorefield – copy all in color	PINK FOLDERS Box #1 00-8250-00-8319 Serostim MENA
R-115	Copy selected files as instructed (5/14/04) Sharon Moorefield – copy all in color	PINK FOLDERS Box #12 00-8320-01-8359 Serostim MENA

Box	IKON Sticker Notes	Box Description
R-116	Copy tagged files with instructions (5/20/04) Sharon Moorefield – copy all in color	PINK FOLDERS Box #13 00-8360-01-8388 Serostim MENA
R-117	Copy tagged files (5/20/04) Sharon Moorefield – copy all in color	PINK FOLDERS Box #14 01-8390-01-8419 Serostim MENA
R-118	Copy one folder as marked (5/20/04) Sharon Moorefield – copy all in color	Serostim Mktg Pink Folders 8161-8179 Box #8
R-119	Copy one folder as marked (5/20/04) Sharon Moorefield – copy all in color	Serostim Mktg Pink Folders Misc Box #1A
R-120	Do Not Copy (5/20/04) Sharon Moorefield – copy all in color	MENA Mktg PINK FOLDERS M&IT SBU Bulletin Binder 10/99-12/99
R-122	Copy entire box	Karen Garvey Box #3 "Field directories"
R-123	Copy entire box	C. Jordan Box #2
R-124	Copy entire box	Robin Galinsky Files
R-125	Copy entire box	C. Jordan Box #5
R-126	Copy entire box	C. Jordon Box 4
R-128	Copy entire box	C. Jordon Box 5 12/17/01
R-129	Copy entire box	D. Kemp
R-130	Copy entire box	Andy Scoular
R-131	Copy entire box	C. Jordon 12/17/01 (Bookcase); Box #1
R-132	Copy entire box	C. Jordan Box #6
R-133	Copy entire box	S/ Wilson/R. Azulay Medicaid Correspondence Box #8
R-134	Copy entire box	S. Wilson/R. Azulay Medicaid Box #9
R-135	Do Not Copy	Ryan Whitecare Act

Box	IKON Sticker Notes	Box Description
R-136		C. Jordan Box #9
R-137	Copy entire box	C. Jordan Box #12
R-138		C. Jordan Box #8 Market Research
R-139		C. Jordan Box #11 Market Research
R-140	Copy entire box	Galinsky 12/17/01
R-141	Copy entire box	C. Jordan Box 10
R-142	Copy entire box	C. Jordan MENA Docs
R-143	Do Not Copy (5/14/04) Sharon Moorefield – copy all in color	D. Kemp 6700 Serostim Mtg. Pink Folders 8121-8159 Box #7
R-144		N. Muurahainen
R-145	Copy entire box	L. Golemme Box 2
R-146		L. Golemme Box 1
R-148	Copy entire box	A. Civetti Box 2 Do not return
R-149	Copy entire box	N Muurahainen
R-150	Copy entire box	Karen Gaudey
R-151	Copy entire box	N Muurahainen
R-152	Copy entire box	D. Kemp NORD Box 4
R-153	Copy entire box	K. Wills
R-154	Copy entire box	N Muurahainen
R-155	Copy entire box	K. Wills
R-156	Copy entire box	C. Bell
R-157		Karen Garvey – BIA Consent Forms & Practitioner Consent Forms Box 2
R-159		C. Brady
R-160	Copy entire box	S. Wilson/Sue Womble & John Bruens Box 1
R-161		S. Wilson/S. Womble & J. Brueno Box 2
R-162		D. Kemp NORD
R-163		R. Galinsky
R-164	Copy entire box	L. Golemme Box 3
R-165		A. Venderese
R-168		T. Golden (File Cabinet) Box 3

Box	IKON Sticker Notes	Box Description
R-169		T. Golden (Bookcase) Box 5
R-170	Do Not Copy	D. Kemp Order Forms
R-171		T. Golden (2 nd top file cabinet) Box 8
R-172		D. Kemp
R-175		T. Golden Box 12
R-176		T. Golden Box 9
R-177		D. Kemp NORD Box 2
R-178		T. Golden
R-179		T. Golden
R-180	Copy entire box	Norma Muurahainen GH References
R-181		J. Mohr
R-182	Copy entire box	J. Castel Box 1
R-183		J. Bianco
R-184		J. Bianco
R-185		Norma Muurahainen
R-186		Norma Muurahainen
R-187		R. Monaghan
R-188	Copy entire box	J. Mohr MENA
R-189		C. Castel
R-190		R. Azulay
R-191		Ellen Frank/M & IT
R-194		Ellen Frank/M & IT
R-195		Ellen Frank/M & IT
R-196		Ellen Frank/M & IT
R-197		Ellen Frank/M & IT
R-198		Ellen Frank/M & IT
R-199		Ellen Frank/M & IT
R-200	Copy entire box	D. Kemp Box 2/2
R-202		C. Jordan
R-203		C. Jordan
R-204		Ellen Frank/M & IT
R-205		Ellen Frank/M & IT
R-206		Ellen Frank/M & IT
R-207		Ellen Frank/M & IT

Box	IKON Sticker Notes	Box Description
R-208		Ellen Frank/M & IT
R-209		Ellen Frank/M & IT
R-210		Ellen Frank/M & IT
R-211		Ellen Frank/M & IT
R-212		Ellen Frank/M & IT
R-213		Ellen Frank/M & IT
R-214		Ellen Frank/M & IT
R-215		S. Womble
R-216		Ellen Frank/M & IT
R-217		Ellen Frank/M & IT
R-219		Ellen Frank/M & IT
R-218		Ellen Frank Miscellaneous Files
R-220		Ellen Frank/M & IT
R-221		Ellen Frank/M & IT
R-222		Mary Stewart
R-223		S. Womble
R-224		S. Womble
R-225		Sue Womble
R-226		Mary Stewart
R-227		Ellen Frank/M & IT
R-228		Ellen Frank/M & IT
R-229		Ellen Frank/M & IT
R-230		Ellen Frank/M & IT
R-231		Ellen Frank/M & IT
R-232		Ellen Frank/M & IT
R-233		M&IT 5769
R-234		Ellen Frank/M & IT
R-235		Sue Womble
R-236		Sue Womble
R-237		Ellen Frank/M & IT
R-238		Ellen Frank/M & IT
R-239		M&IT 1997
R-240		Ellen Frank/M & IT
R-241		Sue Womble
R-242		Ellen Frank/M & IT
R-243		Ellen Frank/M & IT
R-244		Ellen Frank/M & IT
R-245		Ellen Frank/M & IT
R-246		Ellen Frank/M & IT
R-247		Ellen Frank/M & IT
R-248		Ellen Frank/M & IT
R-249		Ellen Frank/M & IT
R-250		Ellen Frank/M & IT

<u>Box</u>	<u>IKON Sticker Notes</u>	<u>Box Description</u>
R-251		Ellen Frank/M & IT
R-252		Bill Dana
R-253		Ellen Frank/M & IT
R-254		Ellen Frank/M & IT
R-261		Tom Lang
R-262		Chris Cramer
R-263		Chris Cramer
R-264		Chris Cramer
R-267		Anthony Verderese
R-268		Anthony Verderese
R-269		Anthony Verderese
R-270		Anthony Verderese
R-271		Anthony Verderese
R-272		Anthony Verderese
R-273		Anthony Verderese
R-274		I. Stillinger
R-275		C. Jordan
R-276		Anthony Verderese
R-277		I. Stillinger
R-278		Ellen Frank
R-279		B. Miller
R-280		I. Stillinger/S. Wilson
R-281		E. Frank
R-282	Copy entire box	C. Bell
R-283		Anita Irizzary
R-284		D. Kemp
R-285	Copy entire box	C. Bell
R-286		R. Azulay
R-287	Copy entire box	C. Bell
R-288		Ellen Frank/M & IT
R-289		Sue Wilson
R-290	Copy entire box	C. Bell
R-291		A. Civetti
R-292		Ellen Frank/M & IT
R-293		T. Lang
R-294		I. Stillger
R-295		J. Finkelstein
R-296		Ellen Frank/M & IT
R-297		T. Lang
R-298		A. Cevitti
R-299		T. Lang
R-300		J. Ambrosio
R-301		J. Abel

Box	IKON Sticker Notes	Box Description
R-302		J. Abel
R-303		J. Abel
R-304		J. Abel
R-305		J. Abel
R-306		J. Abel
R-307		J. Abel
R-308		J. Abel
R-309		J. Abel
R-310		J. Abel
R-311		J. Abel
R-312		J. Ambrosio
R-313		M. Frachette
R-314		M. Frachette
R-315		M. Frachette
R-316		M. Frachette
R-317		M. Frachette
R-318		M. Frachette
R-319		Tim Golden
R-320		Tim Golden
R-321		Tim Golden
R-322		Tim Golden
R-323		N. Muurahainen
R-324		M. Frachette
R-333		Anne Civetti
R-335		Anne Civetti
R-336		Anne Civetti
R-337		J. Ambrogio
R-338		Mena Marketing
R-339		MENA Mtg.
R-340		N. Muurahainen
R-341		M. Frachette
R-342		R. Azulay
R-343		R. Azulay
R-344		N. Muurahainen
R-345		N. Muurahainen
R-346		N. Muurahainen
R-348		D. Gruziano
R-349		Serostim Study
R-350		Serostim Study
R-351		Serostim Study
R-352		Serostim Study
R-353		Serostim Study
R-354		Serostim Study

Box	IKON Sticker Notes	Box Description
R-355		Serostim Study
R-356		Serostim Study
R-357		Serostim Study
R-358		Serostim Study
R-359		Serostim Study
R-360		Serostim Study
R-361		Serostim Study
R-362		Serostim Study
R-363		Serostim Study
R-364		Serostim Study
R-365		Serostim Study
R-366		Serostim Study
R-367		Serostim Study
R-368		Serostim Study
R-369		Serostim Study
R-370		Serostim Study
R-371		Serostim Study
R-372		Serostim Study
R-373		Serostim Study
R-374		Carolyn Jordan
R-375		Carolyn Jordan
R-377		Carolyn Jordan
R-378		Carolyn Jordan
R-379		Carolyn Jordan
R-380		Carolyn Jordan
R-381		Carolyn Jordan
R-382		M & IT Library
R-384		M&IT Library
R-385		Carolyn Jordan
R-386		M&IT Library
R-387		M&IT/1998 Files/D. Greene
R-390 (2 boxes)		M&IT Library
R-391		M&IT Library
R-392		M&IT Library
R-394		MIT-M. Carlson Files
R-395		D. Green
R-396		MIT-M. Carlson Files
R-397		MIT-M. Carlson
R-398		Metabolic TA August 2000 Distinction 2007 Various Reports
R-400		Metabolic TA - -AIDS, Immune, Lypodystrophy
R-401		M&IT Library

Box	IKON Sticker Notes	Box Description
R-402		Metabolic TA/AIDS/Immune/ Lypodystrophy
R-404		M&IT Library
R-405		Womble Carlson Files
R-409		M&IT plus Endocrine
R-410		MRS Team TIND PT FILES
R-411		MRS Team TIND PT FILES
R-412		TIN DPT FILES MRS TEAM
R-413		MRS TEAM TIND PT FILES
R-414		MRS TEAM TIND PT FILES
R-415		Reimbursement Serostim & TIND Patient files dropouts L-MA
R-416		Serostim TIND Files of Reim Svcs. Assoc.
R-417		Serostim TIND Files of Reim. Svcs. Assoc.
R-418		TIND files of Reim Svcs. Assoc.
R-419		Serostim Files of Reim Svcs. Assoc.
R-420		M&IT Library
R-421		M&IT Sales 98 files
R-422		Serostim Training Manual - 3/97 (1996)
R-423		Serostim TIND Files Reim. Svcs. Assoc.
R-424		Corp. Comm Serostim
R-428		Serostim TIND Files of Reim Svcs. Assoc.
R-429		Old Files, Medicare, Medicaid=By States A-
R-430		SEROSTIM TIND PT. FILES DROPOUTS N, O, PE
R-431		Serostim
R-432		Serostim Reimbursement Files
R-433		Reimbursement Serostim Pt. Files Dropouts R
R-434		Reimbursement Serostim Pt. Files Dropouts I, J, K
R-435		Reimbursement Dropouts Mc-My
R-436		Norma Muurahainen
R-437		R-437
R-439		R-439
R-440		C. Bell
R-441		Norma Muurahainen
R-442		Norma Muurahainen
R-443		Norma Muurahainen
R-444		Norma Muurahainen
R-445		Norma Muurahainen
R-446		Norma Muurahainen
R-447		Norma Muurahainen
R-448		Norma Muurahainen

Box	IKON Sticker Notes	Box Description
R-449		Norma Muurahainen
R-451		Karen Currie – Serostim Study
R-452		Karen Currie – Serostim Study
R-453		Karen Currie – Serostim Study
R-454		Karen Currie – Serostim Study
R-455		Karen Currie – Serostim Study
R-456		Karen Currie – Serostim Study
R-457		Karen Currie – Serostim Study
R-458		Karen Currie – Serostim Study
R-459		Karen Currie – Serostim Study
R-460		Karen Currie – Serostim Study
R-461		Karen Currie – Serostim Study
R-462		Karen Currie – Serostim Study
R-463		Karen Currie – Serostim Study
R-464		Karen Currie – Serostim Study
R-465		Karen Currie – Serostim Study
R-466		Karen Currie – Serostim Study
R-467		Karen Currie – Serostim Study
R-468		Karen Currie – Serostim Study
R-469		Karen Currie – Serostim Study
R-470		Karen Currie – Serostim Study
R-471		Karen Currie – Serostim Study
R-472		Karen Currie – Serostim Study
R-473		Karen Currie – Serostim Study
R-477		Karen Currie – Serostim Study
R-474		Karen Currie – Serostim Study
R-475		Karen Currie – Serostim Study
R-476		Karen Currie – Serostim Study
R-476A		Pages left intentionally blank
R-480		Karen Currie – Serostim Study
R-481		Karen Currie – Serostim Study
R-482		Karen Currie – Serostim Study
R-483		Karen Currie – Serostim Study
R-484		Karen Currie – Serostim Study
R-485		Karen Currie – Serostim Study
R-486		Karen Currie – Serostim Study
R-487		Karen Currie – Serostim Study
R-488		Karen Currie – Serostim Study
R-489		Karen Currie – Serostim Study
R-490		Karen Currie – Serostim Study
R-491		Karen Currie – Serostim Study
R-492		Karen Currie – Serostim Study
R-493		Karen Currie – Serostim Study

Box	IKON Sticker Notes	Box Description
R-494		Karen Currie – Serostim Study
R-495		Karen Currie – Serostim Study
R-496		Karen Currie – Serostim Study
R-497		Karen Currie – Serostim Study
R-498		Karen Currie – Serostim Study
R-499		Karen Currie – Serostim Study
R-500		Karen Currie – Serostim Study
R-501		Karen Currie – Serostim Study
R-502		Karen Currie – Serostim Study
R-503		Karen Currie – Serostim Study
R-505		Serostim 5341, 5511, 7033 Correspondence, CRF copy, protocol, misc.
R-506		John Able files
R-508		Serostim NDA 5431, 5511, 7033 Outside Labs
R-510		Protocol 7623
R-513		Serostim NDA 5341, 5511, 7033 Outside Labs
R-514		Karen Currie – Serostim Study
R-515		Karen Currie – Serostim Study
R-516		Karen Currie – Serostim Study
R-517		Karen Currie – Serostim Study
R-518		99 A/P Paid Files Symposia A-L
R-519		No description
R-520		Serostim NDA 120 day update 5511, 7035, 7623 Misc Files 5341, 5511, 7033, 4795 Cofs
R-521		Symposia 97-98 files & SLI 98 Prepaids
R-523		Misc. Marketing Files 97-00
R-524		Marty Joyce's Managed Care Files
R-525		Serostim NDA 5341, 5511, 7033 Audits
R-526		Serostim Treatment Form
R-527		John Haas MC Files
R-529		John Abel files
R-533		Serostim Study Dividers 7623 Case Rpt Forms
R-535		John Abel files
R-537		Medicaid Rebate 92-96
R-538		Serono Symposia
R-539		1998 Employee Expenses, A. Saverino- J. Schertz
R-540		7623 Case Rpt. Forms, Serostim Life Status Forms
R-542		Serostim 6 Mg 98-99 PO's For Ares - Trading
R-543		Protocol 7623, 95-97
R-548		Serostim Study Case Report Forms

Box	IKON Sticker Notes	Box Description
R-551		Marketing files
R-552		Protocol 7623, 95-97
R-554		Serostim Study Cust. Box
R-558		Protocol 7623, 95-97
R-560		No description
R-561		No description
R-565		Serostim NDA
R-566		Serostim NDA & Protocols 5431, 5511, 7033
R-567 ✓		No description
R-568		No description
R-570		John Abel Files
R-571		HMI Serostim TIND Reports
R-573		HMI Serostom A/R Reports
R-576		SeronAIDS -Phase I Site Data
R-577		SeronAIDS - Phase I Site Data
R-578		Serostim TIND
R-579		M&IT
R-582		Original Contracts "C"
R-583		Bob Lederer
R-584		Original Contracts "P" & "Q"
R-586		SeronAIDS Phase I Site Data
R-588		SeronAIDS - Phase I Site Data
R-589		Bob Lederer
R-593		Contracts L-M
R-594		SeronAIDS Phase I Site Data
R-595		Bob Lederer
R-597		SeronAIDS Phase I Site Data
R-599		Original Contracts "R"
R-600		SeronAIDS Phase I Site Data
R-601		Bob Lederer
R-605		Original Contracts "A"
R-607		Contracts N-P
R-609		SeronAIDS Phase I Site Data
R-614		SeronAIDS Phase I Site Data
R-615		Growth Hormone Health Insurance
R-616		Original Contracts "J" and "K"
R-618		Original Contracts "G"
R-626		Original Contracts "T"
R-627		SeronAIDS Phase I Site Data
R-628		Original Contracts "L"
R-630		No description
R-632		Original Contracts "B"

Box	IKON Sticker Notes	Box Description
R-638		Original Contracts "E"
R-641		SeronAIDS Phase I Data
R-643		Original Contracts "S"
R-670		Contracts E-H
R-671		Contracts Cons-D
R-674		Contracts R-S
R-675		Contracts CO
R-677		Contracts T-Z
R-679		Contracts A-C
R-683		Contract HRI
R-692		Karen Currie - Serostim Study
R-693		Karen Currie -- Serostim Study
R-694		Karen Currie -- Serostim Study
R-695		Karen Currie -- Serostim Study
R-696		Karen Currie - Serostim Study
R-697		Karen Currie -- Serostim Study
R-698		Karen Currie - Serostim Study
R-699		Karen Currie - Serostim Study
R-700		Karen Currie - Serostim Study
R-701		Karen Currie - Serostim Study
R-702		Karen Currie - Serostim Study
R-703		Personnel files
R-704		Personnel files
R-705		Personnel files
R-706		Personnel files
R-707		Personnel files
R-708		Serostim Study Files
R-709		Serostim Contracted Network Pharmacy Agreements (CNP)
R-710		J. Larson
R-711		J. Larson
R-712		J. Larson
R-713		J. Larson
R-714		J. Larson
R-715		J. Larson
R-716		J. Larson
R-717		J. Larson
R-718		J. Larson
R-719		J. Larson
R-720		MENA Account Payable
R-721		T. Lang
R-722		J. Abel

Box	IKON Sticker Notes	Box Description
R-723		J. Abel
R-724		T. Lang
R-725		J. Abel
R-726		K. Jones
R-727		M&IT Library
R-728		C. Cramer
R-729		C. Cramer
R-730		Anthony Verederse
R-731		Anthony Verederse
R-732		Anthony Verederse
R-733		Anthony Verederse
R-734		Anthony Verederse
R-735		C. Cramer
R-736		T. Lang
R-737		R. Azulay
R-738		Anita Irizzary, I. Stillger
R-739		J. Abel
R-751		K. Wills
R-740		Ellen Frank/M & IT
R-741		A. Civetti
R-742		J. Abel
R-743		I. Stillger
R-744		A. Cevitti
R-745		J. Abel
R-746		J. Ambrosio
R-747		J. Abel
R-748		J. Abel
R-749		M. Frachette
R-750		Tim Golden
R-751		K. Wills
R-752		K. Wills
R-753		K. Wills
R-755		K. Wills
R-756		K. Wills
R-757		K. Wills
R-758		J. Hart
R-759		J. Larson
R-760		Original Contracts W-Z
R-761		SeronAIDS Phase I Site Data
R-762		SeronAIDS Phase I Site Data
R-763		SeronAIDS Phase I Site Data
R-764		SeronAIDS Phase I Site Data
R-765		SeronAIDS Phase I Site Data

<u>Box</u>	<u>IKON Sticker Notes</u>	<u>Box Description</u>
R-766		J. Hart
R-767		Robert Lederer
R-768		Medical, Marketing, Contracts, MENA
R-769		Contracts
R-770		E. Frank
R-771		K. Ogar
R-772		I. Stillger
R-773		I. Stillger
R-774		I. Stillger/S. Wilson
R-775		MENA
R-776		C. Jordan/R. Azulay
R-777		MENA
R-778		Serostim Protocols
R-779		MENA Accounts Payable
R-780		SeronAIDS Phase I Site Data
R-781		SeronAIDS Phase I Site Data
R-782		M&IT, R. Azulay, E. Frank, N. Muurahainen
R-783		MENA
R-784		MENA Accounts Payable
R-785		Personnel Files
R-786		Personnel Files
R-787		Videos
R-788		MENA/SeronAIDS
R-790		MENA; M&IT Library
R-791		MENA, MRS, Symposia
R-792		C. Jordan, J. Mohr, E. Frank
R-793		GELCO Expense Reports
R-794		NDC Health Inc. Report on Wasting Market
R-795		GELCO Expense Reports
R-796		See Index Re: Documents Redacted For Privilege Produced on September 2, 2003
R-797		See Index Re: Documents Redacted For Privilege Produced on September 2, 2003
R-798		GELCO Expense Reports
R-799		GELCO Expense Reports
R-800		GELCO Expense Reports
R-801		GELCO Expense Reports
R-802		GELCO Expense Reports
R-803		M & IT
R-804		J. Abel
R-805		GELCO Expense Reports
R-806		GELCO Expense Reports
R-807		Personnel files

Box	IKON Sticker Notes	Box Description
R-808		GELCO Expense Reports
R-809		GELCO Expense Reports
R-810		GELCO Expense Reports
R-811		J. Bruens/S. Lundie/C. Jordan
R-812		Videos
R-813		GELCO Expense Reports
R-814		GELCO Expense Reports
R-815		J. Finklestein /R. Azulay/Marketing
R-816		Coopers & Lybrand Reports
R-817		GELCO Expense Reports
R-818		M & IT
R-819		E. Frank
R-820		M & IT
R-821		J. Abel/MENA
R-822		GELCO Expense Reports
R-823		GELCO Expense Reports
R-824		Lisa Constantino
R-825		Finance department
R-826		Eric Tisch
R-827		M & IT
R-828		E. Bertarelli
R-829		E. Bertarelli
R-830		E. Bertarelli
R-831		J. Theurillat
R-832		J. Theurillat
R-833		J. Theurillat
R-834		F. Rubio-Sandi
R-835		R. Baumann
R-836		R. Baumann
R-837		R. Baumann
R-838		R. Baumann
R-839		R. Baumann
R-840		J.P. Verhassel
R-841		J.P. Verhassel
R-842		J.P. Verhassel
R-843		M. Gehring
R-844		M. Gehring
R-845		M Gehring, J.P. Verhassel, F. Rubio-Sandi, J. Theurillat, E. Bertarelli, R. Baumann
R-846		See Index Re: Documents Redacted For Privilege Produced on October 17, 2003
R-847		Tom Hallam
R-849		M & IT

Box	IKON Sticker Notes	Box Description
R-860		M&IT / Contracts
R-861 A&B		GELCO Expense Reports
R-862		MENA E-mails & GELCO expense reports
R-864		See Index Re: Documents Redacted For Privilege Produced on January 16, 2004
R-865		Employee List
R-866		R. Galinsky
R-867		L. Constantino
R-868		R. Galinsky
R-869 A&B		GELCO Expense Reports
R-870		Human Resource
R-871		Human Resource
R-872 A&B		GELCO Expense Reports
R-873 A&B		GELCO Expense Reports
R-874		MRS Department
R-875		MRS Department
R-876		MRS Department
R-877		MRS Department
R-878		MRS Department
R-879		MRS Department
R-880		MRS Department
R-881		MRS Department
R-882		MRS Department
R-883		MRS Department
R-884		MRS Department
R-885		MRS Department
R-886		MRS Department
R-887		MRS Department
R-888		MRS Department
R-889		MRS Department
R-890		MRS Department
R-891		MRS Department
R-892		MRS Department
R-893		MRS Department
R-894		MRS Department
R-895		MRS Department
R-896		MRS Department
R-897		MRS Department
R-898		MRS Department
R-899		MRS Department
R-900		MRS Department
R-901		MRS Department
R-902		MRS Department

Box	IKON Sticker Notes	Box Description
R-903		MRS Department
R-904		MRS Department
R-905		MRS Department
R-906		MRS Department
R-907		MRS Department
R-908		MRS Department
R-909		MRS Department
R-910		MRS Department
R-911		MRS Department
R-912		MRS Department
R-913		MRS Department
R-914		MRS Department
R-915		MRS Department
R-916		MRS Department
R-917		MRS Department
R-918		MRS Department
R-919		MRS Department
R-920		MRS Department
R-921		MRS Department
R-922		MRS Department
R-923		MRS Department
R-924		MRS Department
R-925		MRS Department
R-927		Video Tapes
R-928		Audio Tapes
R-929		Human Resources
R-930		J. Abel
R-931		K. Wills
R-932		L. Constantino
R-933		K. Wills
R-934		D. Kemp
R-935		K. Wills
R-936		See Index Re: Documents Redacted For Privilege Produced on October 15, 2004
R-937		R. Rhinehart
R-938		D. Kemp
R-940		PowerPoint Presentation Re Scope of Serostim Indication: AIDS Wasting
R-943		PowerPoint Presentation Re: Lipodystrophy
R-944		PowerPoint Presentation Re: BIA and Pharmacies
R-945		Employee List

<u>Box</u>	<u>IKON Sticker Notes</u>	<u>Box Description</u>
R-946		Employee List and February 7, 2005 presentation
R-947		Human Resources (personnel files)
R-948		J. Hart
R-949		J. Hart
R-950		J. Hart

BOX	DESCRIPTION	SCANNED
Box 001	Serono - Bank of Boston Statements/Check Lists/Reconciliation Reports 1997-2002	NO
Box 002	Serono - Bank of Boston Checks 1996 - 1997	NO
Box 003	Serono - Bank of Boston Checks 1998	NO
Box 004	Serono - Bank of Boston Checks 1999	NO
Box 005	Serono - Bank of Boston Checks 2000 - 2001	NO
Box 006	Serono - Bank of Boston Checks 2002 (January-March)	NO
Box 007	Serono - Bank of Boston Checks 2002 (April-October)	NO
Box 008	Serono - AMEX Accounts	NO
Box 009	On The Go (Disk)	NO
Box 010	Event Strategy Planners	YES
Box 011	Event Strategy Planners	YES
Box 012	Event Strategy Planners	YES
Box 013	Event Strategy Planners	YES
Box 014	Event Strategy Planners	YES
Box 015	Event Strategy Planners (Financial)	NO
Box 016	Event Strategy Planners (Financial)	NO
Box 017	Quintiles (Financial)	NO
Box 018	Quintiles (Financial)	NO
Box 019	Quintiles (Financial)	NO
Box 020	Quintiles (Financial)	NO
Box 021	Quintiles (Financial)	NO
Box 022	Quintiles (Financial)	NO
Box 023	Quintiles (Financial)	NO
Box 024	Quintiles (Financial)	NO
Box 025	Quintiles (Financial)	NO
Box 026	Quintiles (Financial)	NO
Box 027	Quintiles (Financial)	NO
Box 028	Quintiles (Financial)	NO
Box 029	Quintiles (Financial)	NO
Box 030	Quintiles (Financial)	NO
Box 031	NDC	NO
Box 032	Express Scripts	NO
Box 033	Caremark	NO
Box 034	Oxford Health Plans	NO
Box 035	NHCAA	NO
Box 036	Magellan Health Services	NO
Box 037	Wellpoint	NO
Box 038	Medco Health	NO
Box 039	GEHA	NO
Box 040	Blue Cross Blue Shield Florida	NO
Box 041	OPM	NO
Box 042	Redacted	NO
Box 043	Blue Cross Blue Shield Federal Employees	NO
Box 044	United Health	NO
Box 045	Vista Health Plan	NO
Box 046	Cigna	NO

YES - DOCUMENTS SCANNED OR PART OF SERONO PRODUCTION

NO - DOCUMENTS NOT SCANNED

SOME - DOCUMENTS SCANNED OR PART OF SERONO PRODUCTION, EXCEPT FOR FINANCIALS, PATIENT, PUBLIC AND TELEPHONE INFO.

**SERONO - DISCOVERY
FBI - BOSTON INVENTORY**

05/27/05

BOX	DESCRIPTION	SCANNED
Box 047	Physician Folders: (Serono & subp. documents, copies of Serono checks & subp. checks, subp. telephone subscriber info., patient listings, LexisNexis & ChoicePoint searches). Anderson, Roger Bellos, Nicolaos Berger, Daniel Blick, Gary Cantey, J. Robert Cazen, Richard Condoluci, David Corazon, Alexis Diaz, Leslie Do, Kevin Elbert, Elizabeth Engelhard, Peter Fisher, Alvan Fisher, Kenneth Frechette, Gervais Glaser, Jordan Gorensek, Margaret Grossman, Howard Higgins, Lawrence Hudson, Richard	SOME
Box 048	Physician Folders: (Serono & subp. documents, copies of Serono checks & subp. checks, subp. telephone subscriber info., patient listings, LexisNexis & ChoicePoint searches). Jordan, Wilbert Kotler, Donald Liporace, Ralph Liskey, Lee Mitchell, Clark Murphy, William O'Halloran, James Olmscheid, Bruce Owen, William Piperato, Joseph Romeyn, Mary Santos, Guillermo Scheperle, Mark Scolaro, Michael Steinhart, Corklin Strebel, Gregory Torres, Ramon Vanig, Thanes Wallach, Jeffrey Wanke, Christine West, Timothy Wiesinger, Herbert Wiewora, Ronald	SOME
Box 049	Bellos, Nicolaos - documents provided by the physician	YES
Box 050	Bellos, Nicolaos - SBC	NO

YES - DOCUMENTS SCANNED OR PART OF SERONO PRODUCTION

NO - DOCUMENTS NOT SCANNED

SOME - DOCUMENTS SCANNED OR PART OF SERONO PRODUCTION, EXCEPT FOR FINANCIALS, PATIENT, PUBLIC AND TELEPHONE INFO.

**SERONO - DISCOVERY
FBI - BOSTON INVENTORY**

05/27/05

BOX	DESCRIPTION	SCANNED
Box 051	Bellos, Nicolaos - Florida	NO
Box 052	Bellos, Nicolaos - Florida	NO
Box 053	Bellos, Nicolaos - Medicare	NO
Box 054	Bellos, Nicolaos - AMEX	NO
Box 055	Bellos, Nicolaos - Bank One	NO
Box 056	Berger, Daniel - documents provided by the physician	YES
Box 057	Berger, Daniel - Mid-America	NO
Box 058	Berger, Daniel - AMEX	NO
Box 059	Berger, Daniel - Union Planter	NO
Box 060	Berger, Daniel - Mid-America	NO
Box 061	Berger, Daniel - MBNA	NO
Box 062	Berger, Daniel - La Salle Bank	NO
Box 063	Berger, Daniel - Elan Financial Services	NO
Box 064	Berger, Daniel - Discover Card	NO
Box 065	Cazen, Richard - documents provided by the physician	YES
Box 066	Cazen, Richard - Wells Fargo	NO
Box 067	Cazen, Richard - Wells Fargo	NO
Box 068	Cazen, Richard - Wells Fargo	NO
Box 069	Cazen, Richard - Wells Fargo	NO
Box 070	Cazen, Richard - Wells Fargo	NO
Box 071	Cazen, Richard - Wells Fargo	NO
Box 072	Cazen, Richard - Wells Fargo	NO
Box 073	Corazon, Alexis - Greater Community	NO
Box 074	Grossman, Howard - documents provided by the physician	YES
Box 075	Grossman, Howard - Merck, Verizon, AT&T, OmniPoint Communications	NO
Box 076	Higgins, Lawrence - Citibank, Verizon	NO
Box 077	Higgins, Lawrence - Citibank	NO
Box 078	Higgins, Lawrence - Citibank	NO
Box 079	Higgins, Lawrence - Citibank	NO
Box 080	Jordan, Wilbert - BOA	NO
Box 081	Jordan, Wilbert - AMEX	NO
Box 082	Liskey, Lee - BOA	NO
Box 083	Liskey, Lee - BOA	NO
Box 084	Liskey, Lee - AMEX	NO
Box 085	Milano, Danielle - documents provided by the physician	YES
Box 086	Piperato, Joseph - SunTrust	NO
Box 087	Piperato, Joseph - documents provided by the physician	YES
Box 088	Santos, Guillermo - Citibank	NO
Box 089	Santos, Guillermo - Citibank	NO
Box 090	Santos, Guillermo - Citibank	NO
Box 091	Santos, Guillermo - Citibank	NO
Box 092	Santos, Guillermo - Citibank	NO
Box 093	Santos, Guillermo - Citibank	NO
Box 094	Santos, Guillermo - Citibank	NO
Box 095	Santos, Guillermo - Citibank	NO
Box 096	Scolaro, Michael - AMEX	NO
Box 097	Scolaro, Michael - Pacific Western	NO
Box 098	Wanke, Christine - Fleet Bank	NO
Box 099	Wanke, Christine - Fleet Bank	NO

YES - DOCUMENTS SCANNED OR PART OF SERONO PRODUCTION

NO - DOCUMENTS NOT SCANNED

SOME - DOCUMENTS SCANNED OR PART OF SERONO PRODUCTION, EXCEPT FOR FINANCIALS, PATIENT, PUBLIC AND TELEPHONE INFO.

05/27/05

**SERONO - DISCOVERY
FBI - BOSTON INVENTORY**

BOX	DESCRIPTION	SCANNED
Box 100	<p>Serono Employee Folders: (Serono documents, copies of Serono checks, subp. for telephone subscriber info., AMEX, DMV, LexisNexis and ChoicePoint searches).</p> <p>Abel, John Aromando, Jeffrey Baaj, Abdullah Baiden IV, A. Hamilton Bell, Cindy Bershad, Melissa Black, Phillip Blackwell, Michael Boucher, Sandra Browning, Thomas Bruens, John</p>	SOME
Box 101	<p>Serono Employee Folders: (Serono documents, copies of Serono checks, subp. for telephone subscriber info., AMEX, DMV, LexisNexis and ChoicePoint searches).</p> <p>Canavan, Katie Cast, Kevin Cimino, Joseph Driscoll, Christine Englert, Christopher Frank, Ellen Frederick, Michele Frye, William Golemme, Leslie Grech, Paul Hart, Jeffrey</p>	SOME
Box 102	<p>Serono Employee Folders: (Serono documents, copies of Serono checks, subp. for telephone subscriber info., AMEX, DMV, LexisNexis and ChoicePoint searches).</p> <p>Hitchcock, Bryan Hopkins, Michael Hudgens, Ray Hudson, Todd Jackson, Kimberly Jennings, Michael Jordan, Carolyn Joyce, Martin Kahn, Doris King, Donna</p>	SOME

YES - DOCUMENTS SCANNED OR PART OF SERONO PRODUCTION

NO - DOCUMENTS NOT SCANNED

SOME - DOCUMENTS SCANNED OR PART OF SERONO PRODUCTION, EXCEPT FOR FINANCIALS, PATIENT, PUBLIC AND TELEPHONE INFO.

**SERONO - DISCOVERY
FBI - BOSTON INVENTORY**

05/27/05

BOX	DESCRIPTION	SCANNED
Box 103	Serono Employee Folders: (Serono documents, copies of Serono checks, subp. for telephone subscriber info., AMEX, DMV, LexisNexis and ChoicePoint searches). Lanier, Tyree Lynch, Jeffrey Macaluso, MaryBeth Mikolajczyk, Todd Mohr, Joseph Moscardini, Caryl Moynihan, Michael Munson, Kurt Muurahainen, Norma Ogar, Kathleen Parra, Heriberto Pettit, Ross	SOME
Box 104	Serono Employee Folders: (Serono & subp. documents, copies of Serono checks, subp. for telephone subscriber info., AMEX, DMV, LexisNexis and ChoicePoint searches). Piccuito, Marion Pinteris, Konstantine Reserva, D. Russell Richards, Steve Samra, Hisham Saverino, Angelo Sawin, David Schulz, Erik Schwalbert, Rick Segiet, Linda	SOME
Box 105	Serono Employee Folders: (Serono & subp. documents, copies of Serono checks, subp. for telephone subscriber info., AMEX, DMV, LexisNexis and ChoicePoint searches). Sirockman, Marc Speights, Teresa Stewart, Mary Stupak, Adam Sullivan, R. Todd Tack, Kathy Vaughn, Melissa (Folder 1)	SOME
Box 106	Serono Employee Folders: (Serono & subp. documents, copies of Serono checks, subp. for telephone subscriber info., AMEX, DMV, LexisNexis and ChoicePoint searches). Vaughn, Melissa (Folder 2) Weber-Vincins, Sophie White, Devon Whitehurst, Adam Willinder, Todd Willis, Angela Womble, Susan	SOME
Box 107	Abel, John - Verizon	NO
Box 108	Pinteris, Konstantine - documents provided by Pinteris	NO
Box 109	Sawin, David - Wells Fargo	NO
Box 110	Sawin, David - First Technology Credit Union	NO
Box 111	Sirockman, Marc - Fleet Bank	NO
Box 112	Stupak, Adam - Greenpoint Bank	NO

YES - DOCUMENTS SCANNED OR PART OF SERONO PRODUCTION

NO - DOCUMENTS NOT SCANNED

SOME - DOCUMENTS SCANNED OR PART OF SERONO PRODUCTION, EXCEPT FOR FINANCIALS, PATIENT, PUBLIC AND TELEPHONE INFO.

SERO RECOVERY
FBI - BOSTON INVENTORY

05/27/05

BOX	DESCRIPTION	SCANNED
Box 113	Interview/Briefing Notebooks: (Serono & subp. documents, copies of Serono checks, LexisNexis and ChoicePoint searches). Aromando, Jeffrey Bellos, Nicolaos Berger, Daniel Canavan, Katie Cantey, J. Robert Cazen, Richard Concorde (marketing plans) Condoluci, David Corazon, Alexis Do, Kevin Driscoll, Christine Elbert, Elizabeth	SOME
Box 114	Interview/Briefing Notebooks: (Serono & subp. documents, copies of Serono checks, LexisNexis and ChoicePoint searches). Gorensek, Margaret Grossman, Howard Gutowski, John Higgins, Lawrence Hudson, Todd Jordan, Wilbert Leverence, Seth Liskey, Lee Lynch, Jeffrey McKenna, Michael Milano, Danielle Moscardini, Caryl Olmscheid, Bruce	SOME
Box 115	Interview/Briefing Notebooks: (Serono & subp. documents, copies of Serono checks, LexisNexis and ChoicePoint searches). Parra, Heriberto Pinteris, Konstantine (I & II) Piperato, Joseph Romeyn, Mary Sawin, David Scolaro, Michael Sirockman, Marc (I & II) Whitehurst, Adam Womble, Susan	SOME

YES - DOCUMENTS SCANNED OR PART OF SERONO PRODUCTION

NO - DOCUMENTS NOT SCANNED

SOME - DOCUMENTS SCANNED OR PART OF SERONO PRODUCTION, EXCEPT FOR FINANCIALS, PATIENT, PUBLIC AND TELEPHONE INFO.

**SERONO - DISCOVERY
FBI - BOSTON INVENTORY**

BOX	DESCRIPTION	SCANNED
Box 116	Pharmacy Folders: (Serono & subp. documents, copies of Serono checks & subp. checks, AMEX, LexisNexis & ChoicePoint searches). Advocate Rx Ancillary Technologies APP Beverly Hills/Rx Unlimited (2 Folders) Bob's Pharmacy Capitol Drugs Chronimed Commcare Pharmacy Coram Healthcare Curascript CVS Procure	SOME
Box 117	Pharmacy Folders: (Serono & subp. documents, copies of Serono checks & subp. checks, AMEX, LexisNexis & ChoicePoint searches). Direct Script Discount Medical Echo Drug Get Well Pharmacy & Medical Services Holly Hill Pharmacy Home Medical Supply Home Patient Care (HPC) Humana Pasco Center Pharmacy Infustat Home Infusion Services Innovative Nursing Management Lincourt Pharmacy Long's Pharmacy McCord - Sweeney Nations Health NMC Homecare Ocean Breeze Pharmacy	SOME
Box 118	Pharmacy Folders: (Serono & subp. documents, copies of Serono checks & subp. checks, AMEX, LexisNexis & ChoicePoint searches). Patient's Pharmacy Pharma Infusion Pharmacy Plus Resources Portland Professional Pharmacy Prairie Pharmacy Priority Pharmacy PSA, Inc. Sterling Pharmacy Thrift Drug Total Remedy/Good Samaritan Stadtlanders Statscript TDI	SOME
Box 119	Serono Training	YES
Box 120	Accent Rx - Scripting Data	NO

YES - DOCUMENTS SCANNED OR PART OF SERONO PRODUCTION

NO - DOCUMENTS NOT SCANNED

SOME - DOCUMENTS SCANNED OR PART OF SERONO PRODUCTION, EXCEPT FOR FINANCIALS, PATIENT, PUBLIC AND TELEPHONE INFO.

**SERONO - DISCOVERY
FBI - BOSTON INVENTORY**

BOX	DESCRIPTION	SCANNED
Box 121	Beverly Hills - BOA & Scripting Data	SOME
Box 122	Chronimed - Scripting Data	NO
Box 123	Coram Healthcare - Scripting Data	NO
Box 124	Discount Medical - Scripting Data	NO
Box 125	Eckerd - Scripting Data	NO
Box 126	Good Samaritan/Total Remedy - Scripting Data	NO
Box 127	Nova Factor - Scripting Data	NO
Box 128	Prairie Pharmacy - Scripting Data	NO
Box 129	Priority Pharmacy - Scripting Data	NO
Box 130	Rx Unlimited - Scripting Data	NO
Box 131	Rx Unlimited - BOA	NO
Box 132	Statscript - Scripting Data	NO
Box 133	The Medicine Shoppe - PNC	NO
Box 134	The Medicine Shoppe - PNC	NO
Box 135	The Medicine Shoppe - PNC	NO
Box 136	The Medicine Shoppe - PNC	NO
Box 137	The Medicine Shoppe - PNC	NO
Box 138	Vons/Safeway	NO
Box 139	PriceWaterhouseCoopers	NO
Box 140	Associate Folders: (Serono documents, copies of Serono checks, AMEX, D&B, LexisNexis, and ChoicePoint searches). Al Farouk, Bil Quis Bertarelli Foundation Boughton, Billy B. Bruton, Gwen Call Activity Report Key Coulson, Scarlett Jackson, Carolyn Konkol, Todd Luck, Susan Mooney, Michael Pleasants, Chrystin Pollack Ramsur, Edric RJL Serono Diagnostics, Inc./Boston SDI, Inc. Serono Holdings, Ins. Serono Investments Corp. Serono Symposia, Inc. Serono (LexisNexis - Massachusetts & Delaware)	SOME
Box 141	SeronAIDS	SOME
Box 142	Serono Back-up Computer Server Tapes (BIA)	NO
Box 143	Serono Copies of Audio Tapes (01-30)	NO
Box 144	Serono Back-up Computer Server Tapes (Email)	NO
Box 145	Serono Copies of Video Tapes (01-37)	NO
Box 146	Verizon Computer Disk - New York	NO

YES - DOCUMENTS SCANNED OR PART OF SERONO PRODUCTION

NO - DOCUMENTS NOT SCANNED

SOME - DOCUMENTS SCANNED OR PART OF SERONO PRODUCTION, EXCEPT FOR FINANCIALS, PATIENT, PUBLIC AND TELEPHONE INFO.



U.S. Department of Justice

Michael J. Sullivan
United States Attorney
District of Massachusetts

Main Reception: (617) 748-3100

John Joseph Moakley United States Courthouse
1 Courthouse Way
Suite 9200
Boston, Massachusetts 02210

November 14, 2005

VIA FACSIMILE AND FEDERAL EXPRESS

Thomas McC. Souther, Esq.
Sidley, Austin, Brown & Wood, LLP
787 Seventh Avenue
New York, NY 10019

Re: United States v. John Bruens, et al.
Criminal No. 05-10102-JLT

Dear Mr. Souther:

Pursuant to a previous conversation with Assistant U.S. Attorney Mary Elizabeth Carmody, the government provides the following electronic copy of all Serono, Inc. relator documents as an addendum to the automatic discovery produced on May 31, 2005.

Enclosed is a DVD containing documents numbered JB 000307 - JB 009705 and various physical evidence numbered JB 009706 - JB 009715, as itemized below:

DOCUMENT	CONTENTS	BATES RANGE
Relator Qui Tam & Disclosure Statements	Sandra Boucher / William Frye / Kimberly Jackson Qui tam	JB 000307 - JB 000320
	Boucher / Frye / Jackson Disclosure Statement	JB 000321 - JB 000330
	Jackson Disclosure Exhibits 1-24	JB 000331 - JB 000482
	Boucher Disclosure Exhibits 25-64	JB 000483 - JB 000972
	Frye Disclosure Exhibits 65-95	JB 000973 - JB 001847

November 14, 2005

Page 2

	Christine Driscoll / Frank Garcia Qui tam - 5.13.05	JB 001848 - JB 001900
	Driscoll Disclosure Statement & Exhibits*	JB 001901 - JB 002467
	Driscoll First Supplemental Disclosure Statement & Exhibits	JB 002468 - JB 002499
	Frank Garcia / Christine Driscoll Qui tam - 10.6.03	JB 002500 - JB 002552
	Garcia Disclosure Statement & Exhibits	JB 002553 - JB 002627
	Aids Healthcare Foundation Qui tam	JB 002628 - JB 002635
Grand Jury Testimony & Exhibits	Boucher Grand Jury Testimony & Exhibits	JB 002636 - JB 002801**
	Driscoll Grand Jury Testimony & Exhibits	JB 002802 - JB 004824
	Frye Grand Jury Testimony & Exhibits	JB 004825 - JB 004986
	Garcia Grand Jury Testimony & Exhibits	JB 004987 - JB 005224
	Jackson Grand Jury Testimony & Exhibits	JB 005225 - JB 005879
Kimberly Jackson's Franklin Planners	1997 Franklin Planner	JB 005880 - JB 006684
	1998 Franklin Planner	JB 006685 - JB 007631
	1999 Franklin Planner	JB 007632 - JB 008556
Federal Civil Settlement	-	JB 008557 - JB 008617
State Medicaid Agreements***	-	JB 008618 - JB 009175
Memoranda of Interview	Boucher Memoranda of Interview	JB 009176 - JB 009203

November 14, 2005

Page 3

	Driscoll Memoranda of Interview	JB 009204 - JB 009248
	Frye Memoranda of Interview	JB 009249 - JB 009354
	Garcia Memoranda of Interview	JB 009355 - JB 009673
	Jackson Memoranda of Interview	JB 009674 - JB 009705

*I am currently not in possession of the Driscoll Disclosure Statement Exhibit E but will produce it as soon as it is available.

**Please note that JB 002698 has been intentionally left blank

***The government is waiting for executed agreements from Connecticut, Ohio, Indiana, Pennsylvania and Texas

The following physical evidence is also enclosed:

DOCUMENT	CONTENTS	BATES RANGE
Exhibit 3(t) to Driscoll 1.11.05 GJ Testimony	CDs (4) and DVD Video	JB 009706 - JB 009710
Exhibit 10 to Driscoll 1.11.05 GJ Testimony	CD	JB 009711
Exhibit 14 to Garcia 4.27.04 GJ Testimony	DVD Video	JB 009712
Exhibit 19 to Garcia 4.27.04 GJ Testimony	DVD Video	JB 009713
Exhibit 1 to Jackson 11.18.03 GJ Testimony	DVD Video	JB 009714

Please note that the May 13, 2005, Christine Driscoll / Frank Garcia qui tam submission, December 5, 2000, Driscoll Disclosure Statement and January 23, 2001, Driscoll Supplemental Disclosure Statement have been redacted to protect an ongoing sealed investigation. Relator memoranda of interview also have been redacted for case and person identifiers.

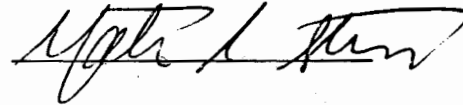
If you have any questions or comments, please do not hesitate to contact me at 617-748-3646.

November 14, 2005
Page 4

Very truly yours,

MICHAEL J. SULLIVAN
United States Attorney

By:

A handwritten signature in dark ink, appearing to read "Matthew S. Stavrakis", written over a horizontal line.

MATTHEW S. STAVRIS
Healthcare Fraud Paralegal



U.S. Department of Justice

Michael J. Sullivan
United States Attorney
District of Massachusetts

Main Reception: (617) 748-3100

John Joseph Moakley United States Courthouse
1 Courthouse Way
Suite 9200
Boston, Massachusetts 02210

November 14, 2005

VIA FACSIMILE AND FEDERAL EXPRESS

Mark Berman, Esq.
Gibbons, Del Deo, Dolan, Griffinger & Vecchione
One Riverfront Plaza
Newark, NJ 07102-5496

Re: United States v. Mary Stewart, et al.
Criminal No. 05-10102-JLT

Dear Mr. Berman:

Pursuant to a previous conversation with Assistant U.S. Attorney Mary Elizabeth Carmody, the government provides the following electronic copy of all Serono, Inc. relator documents as an addendum to the automatic discovery produced on May 31, 2005.

Enclosed is a DVD containing documents numbered JB 000307 - JB 009705 and various physical evidence numbered JB 009706 - JB 009715, as itemized below:

DOCUMENT	CONTENTS	BATES RANGE
Relator Qui Tam & Disclosure Statements	Sandra Boucher / William Frye / Kimberly Jackson Qui tam	JB 000307 - JB 000320
	Boucher / Frye / Jackson Disclosure Statement	JB 000321 - JB 000330
	Jackson Disclosure Exhibits 1-24	JB 000331 - JB 000482
	Boucher Disclosure Exhibits 25-64	JB 000483 - JB 000972
	Frye Disclosure Exhibits 65-95	JB 000973 - JB 001847

November 14, 2005

Page 2

	Christine Driscoll / Frank Garcia Qui tam - 5.13.05	JB 001848 - JB 001900
	Driscoll Disclosure Statement & Exhibits*	JB 001901 - JB 002467
	Driscoll First Supplemental Disclosure Statement & Exhibits	JB 002468 - JB 002499
	Frank Garcia / Christine Driscoll Qui tam - 10.6.03	JB 002500 - JB 002552
	Garcia Disclosure Statement & Exhibits	JB 002553 - JB 002627
	Aids Healthcare Foundation Qui tam	JB 002628 - JB 002635
Grand Jury Testimony & Exhibits	Boucher Grand Jury Testimony & Exhibits	JB 002636 - JB 002801**
	Driscoll Grand Jury Testimony & Exhibits	JB 002802 - JB 004824
	Frye Grand Jury Testimony & Exhibits	JB 004825 - JB 004986
	Garcia Grand Jury Testimony & Exhibits	JB 004987 - JB 005224
	Jackson Grand Jury Testimony & Exhibits	JB 005225 - JB 005879
Kimberly Jackson's Franklin Planners	1997 Franklin Planner	JB 005880 - JB 006684
	1998 Franklin Planner	JB 006685 - JB 007631
	1999 Franklin Planner	JB 007632 - JB 008556
Federal Civil Settlement	-	JB 008557 - JB 008617
State Medicaid Agreements***	-	JB 008618 - JB 009175
Memoranda of Interview	Boucher Memoranda of Interview	JB 009176 - JB 009203

November 14, 2005

Page 3

	Driscoll Memoranda of Interview	JB 009204 - JB 009248
	Frye Memoranda of Interview	JB 009249 - JB 009354
	Garcia Memoranda of Interview	JB 009355 - JB 009673
	Jackson Memoranda of Interview	JB 009674 - JB 009705

*I am currently not in possession of the Driscoll Disclosure Statement Exhibit E but will produce it as soon as it is available.

**Please note that JB 002698 has been intentionally left blank

***The government is waiting for executed agreements from Connecticut, Ohio, Indiana, Pennsylvania and Texas

The following physical evidence is also enclosed:

DOCUMENT	CONTENTS	BATES RANGE
Exhibit 3(t) to Driscoll 1.11.05 GJ Testimony	CDs (4) and DVD Video	JB 009706 - JB 009710
Exhibit 10 to Driscoll 1.11.05 GJ Testimony	CD	JB 009711
Exhibit 14 to Garcia 4.27.04 GJ Testimony	DVD Video	JB 009712
Exhibit 19 to Garcia 4.27.04 GJ Testimony	DVD Video	JB 009713
Exhibit 1 to Jackson 11.18.03 GJ Testimony	DVD Video	JB 009714

Please note that the May 13, 2005, Christine Driscoll / Frank Garcia qui tam submission, December 5, 2000, Driscoll Disclosure Statement and January 23, 2001, Driscoll Supplemental Disclosure Statement have been redacted to protect an ongoing sealed investigation. Relator memoranda of interview also have been redacted for case and person identifiers.

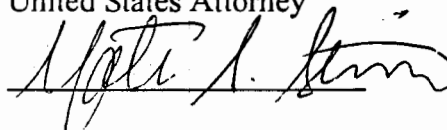
If you have any questions or comments, please do not hesitate to contact me at 617-748-3646.

November 14, 2005
Page 4

Very truly yours,

MICHAEL J. SULLIVAN
United States Attorney

By:

A handwritten signature in dark ink, appearing to read "Matthew S. Stavrakis", is written over a horizontal line.

MATTHEW S. STAVRIS
Healthcare Fraud Paralegal



U.S. Department of Justice

Michael J. Sullivan
United States Attorney
District of Massachusetts

Main Reception: (617) 748-3100

John Joseph Moakley United States Courthouse
1 Courthouse Way
Suite 9200
Boston, Massachusetts 02210

November 14, 2005

VIA FACSIMILE AND FEDERAL EXPRESS

Adam S. Hoffinger, Esq.
Piper Rudnick
1200 Nineteenth Street, N.W.
Washington, DC 20036-2430

Re: United States v. Melissa Vaughn, et al.
Criminal No. 05-10102-JLT

Dear Mr. Hoffinger:

Pursuant to a previous conversation with Assistant U.S. Attorney Mary Elizabeth Carmody, the government provides the following electronic copy of all Serono, Inc. relator documents as an addendum to the automatic discovery produced on May 31, 2005.

Enclosed is a DVD containing documents numbered JB 000307 - JB 009705 and various physical evidence numbered JB 009706 - JB 009715, as itemized below:

DOCUMENT	CONTENTS	BATES RANGE
Relator Qui Tam & Disclosure Statements	Sandra Boucher / William Frye / Kimberly Jackson Qui tam	JB 000307 - JB 000320
	Boucher / Frye / Jackson Disclosure Statement	JB 000321 - JB 000330
	Jackson Disclosure Exhibits 1-24	JB 000331 - JB 000482
	Boucher Disclosure Exhibits 25-64	JB 000483 - JB 000972
	Frye Disclosure Exhibits 65-95	JB 000973 - JB 001847

November 14, 2005

Page 2

	Christine Driscoll / Frank Garcia Qui tam - 5.13.05	JB 001848 - JB 001900
	Driscoll Disclosure Statement & Exhibits*	JB 001901 - JB 002467
	Driscoll First Supplemental Disclosure Statement & Exhibits	JB 002468 - JB 002499
	Frank Garcia / Christine Driscoll Qui tam - 10.6.03	JB 002500 - JB 002552
	Garcia Disclosure Statement & Exhibits	JB 002553 - JB 002627
	Aids Healthcare Foundation Qui tam	JB 002628 - JB 002635
Grand Jury Testimony & Exhibits	Boucher Grand Jury Testimony & Exhibits	JB 002636 - JB 002801**
	Driscoll Grand Jury Testimony & Exhibits	JB 002802 - JB 004824
	Frye Grand Jury Testimony & Exhibits	JB 004825 - JB 004986
	Garcia Grand Jury Testimony & Exhibits	JB 004987 - JB 005224
	Jackson Grand Jury Testimony & Exhibits	JB 005225 - JB 005879
Kimberly Jackson's Franklin Planners	1997 Franklin Planner	JB 005880 - JB 006684
	1998 Franklin Planner	JB 006685 - JB 007631
	1999 Franklin Planner	JB 007632 - JB 008556
Federal Civil Settlement	-	JB 008557 - JB 008617
State Medicaid Agreements***	-	JB 008618 - JB 009175
Memoranda of Interview	Boucher Memoranda of Interview	JB 009176 - JB 009203

November 14, 2005

Page 3

	Driscoll Memoranda of Interview	JB 009204 - JB 009248
	Frye Memoranda of Interview	JB 009249 - JB 009354
	Garcia Memoranda of Interview	JB 009355 - JB 009673
	Jackson Memoranda of Interview	JB 009674 - JB 009705

*I am currently not in possession of the Driscoll Disclosure Statement Exhibit E but will produce it as soon as it is available.

**Please note that JB 002698 has been intentionally left blank

***The government is waiting for executed agreements from Connecticut, Ohio, Indiana, Pennsylvania and Texas

The following physical evidence is also enclosed:

DOCUMENT	CONTENTS	BATES RANGE
Exhibit 3(t) to Driscoll 1.11.05 GJ Testimony	CDs (4) and DVD Video	JB 009706 - JB 009710
Exhibit 10 to Driscoll 1.11.05 GJ Testimony	CD	JB 009711
Exhibit 14 to Garcia 4.27.04 GJ Testimony	DVD Video	JB 009712
Exhibit 19 to Garcia 4.27.04 GJ Testimony	DVD Video	JB 009713
Exhibit 1 to Jackson 11.18.03 GJ Testimony	DVD Video	JB 009714

Please note that the May 13, 2005, Christine Driscoll / Frank Garcia qui tam submission, December 5, 2000, Driscoll Disclosure Statement and January 23, 2001, Driscoll Supplemental Disclosure Statement have been redacted to protect an ongoing sealed investigation. Relator memoranda of interview also have been redacted for case and person identifiers.

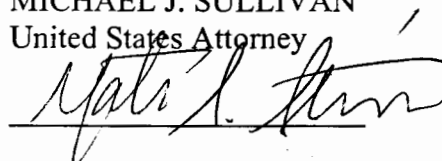
If you have any questions or comments, please do not hesitate to contact me at 617-748-3646.

November 14, 2005
Page 4

Very truly yours,

MICHAEL J. SULLIVAN
United States Attorney

By:

A handwritten signature in dark ink, appearing to read "Matthew S. Stavrakis", is written over a horizontal line.

MATTHEW S. STAVRIS
Healthcare Fraud Paralegal



U.S. Department of Justice

Michael J. Sullivan
United States Attorney
District of Massachusetts

Main Reception: (617) 748-3100

John Joseph Moakley United States Courthouse
1 Courthouse Way
Suite 9200
Boston, Massachusetts 02210

November 14, 2005

VIA FACSIMILE AND FEDERAL EXPRESS

Tracy A. Miner, Esq.
Mintz, Levin, Cohn, Ferris, Glovsky & Popeo, LLP
One Financial Center
Boston, MA 02111

Re: United States v. Mark Sirockman, et al.
Criminal No. 05-10102-JLT

Dear Ms. Miner:

Pursuant to a previous conversation with Assistant U.S. Attorney Mary Elizabeth Carmody, the government provides the following electronic copy of all Serono, Inc. relator documents as an addendum to the automatic discovery produced on May 31, 2005.

Enclosed is a DVD containing documents numbered JB 000307 - JB 009705 and various physical evidence numbered JB 009706 - JB 009715, as itemized below:

DOCUMENT	CONTENTS	BATES RANGE
Relator Qui Tam & Disclosure Statements	Sandra Boucher / William Frye / Kimberly Jackson Qui tam	JB 000307 - JB 000320
	Boucher / Frye / Jackson Disclosure Statement	JB 000321 - JB 000330
	Jackson Disclosure Exhibits 1-24	JB 000331 - JB 000482
	Boucher Disclosure Exhibits 25-64	JB 000483 - JB 000972
	Frye Disclosure Exhibits 65-95	JB 000973 - JB 001847

November 14, 2005

Page 2

	Christine Driscoll / Frank Garcia Qui tam - 5.13.05	JB 001848 - JB 001900
	Driscoll Disclosure Statement & Exhibits*	JB 001901 - JB 002467
	Driscoll First Supplemental Disclosure Statement & Exhibits	JB 002468 - JB 002499
	Frank Garcia / Christine Driscoll Qui tam - 10.6.03	JB 002500 - JB 002552
	Garcia Disclosure Statement & Exhibits	JB 002553 - JB 002627
	Aids Healthcare Foundation Qui tam	JB 002628 - JB 002635
Grand Jury Testimony & Exhibits	Boucher Grand Jury Testimony & Exhibits	JB 002636 - JB 002801**
	Driscoll Grand Jury Testimony & Exhibits	JB 002802 - JB 004824
	Frye Grand Jury Testimony & Exhibits	JB 004825 - JB 004986
	Garcia Grand Jury Testimony & Exhibits	JB 004987 - JB 005224
	Jackson Grand Jury Testimony & Exhibits	JB 005225 - JB 005879
Kimberly Jackson's Franklin Planners	1997 Franklin Planner	JB 005880 - JB 006684
	1998 Franklin Planner	JB 006685 - JB 007631
	1999 Franklin Planner	JB 007632 - JB 008556
Federal Civil Settlement	-	JB 008557 - JB 008617
State Medicaid Agreements***	-	JB 008618 - JB 009175
Memoranda of Interview	Boucher Memoranda of Interview	JB 009176 - JB 009203

November 14, 2005

Page 3

	Driscoll Memoranda of Interview	JB 009204 - JB 009248
	Frye Memoranda of Interview	JB 009249 - JB 009354
	Garcia Memoranda of Interview	JB 009355 - JB 009673
	Jackson Memoranda of Interview	JB 009674 - JB 009705

*I am currently not in possession of the Driscoll Disclosure Statement Exhibit E but will produce it as soon as it is available.

**Please note that JB 002698 has been intentionally left blank

***The government is waiting for executed agreements from Connecticut, Ohio, Indiana, Pennsylvania and Texas

The following physical evidence is also enclosed:

DOCUMENT	CONTENTS	BATES RANGE
Exhibit 3(t) to Driscoll 1.11.05 GJ Testimony	CDs (4) and DVD Video	JB 009706 - JB 009710
Exhibit 10 to Driscoll 1.11.05 GJ Testimony	CD	JB 009711
Exhibit 14 to Garcia 4.27.04 GJ Testimony	DVD Video	JB 009712
Exhibit 19 to Garcia 4.27.04 GJ Testimony	DVD Video	JB 009713
Exhibit 1 to Jackson 11.18.03 GJ Testimony	DVD Video	JB 009714

Please note that the May 13, 2005, Christine Driscoll / Frank Garcia qui tam submission, December 5, 2000, Driscoll Disclosure Statement and January 23, 2001, Driscoll Supplemental Disclosure Statement have been redacted to protect an ongoing sealed investigation. Relator memoranda of interview also have been redacted for case and person identifiers.

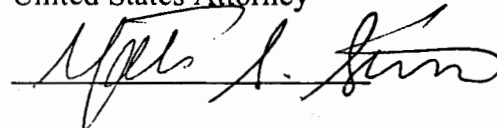
If you have any questions or comments, please do not hesitate to contact me at 617-748-3646.

November 14, 2005
Page 4

Very truly yours,

MICHAEL J. SULLIVAN
United States Attorney

By:

A handwritten signature in black ink, appearing to read "Matthew S. Stavrakis", written over a horizontal line.

MATTHEW S. STAVRIS
Healthcare Fraud Paralegal



U.S. Department of Justice

Michael J. Sullivan
United States Attorney
District of Massachusetts

Main Reception: (617) 748-3100

John Joseph Moakley United States Courthouse
1 Courthouse Way
Suite 9200
Boston, Massachusetts 02210

December 5, 2005

VIA FEDERAL EXPRESS

Thomas McC. Souther, Esq.
Sidley, Austin, Brown & Wood, LLP
787 Seventh Ave.
New York, NY 10019

Re: United States v. John Bruens, et al.
Criminal No. 05-10102-JLT

Dear Mr. Souther:

It has been brought to our attention that the State Settlement Agreements, bates numbered JB 008618 - JB 009175, produced electronically on November 14, 2005 were largely illegible. Enclosed is a reproduction of those State Settlement Agreements.

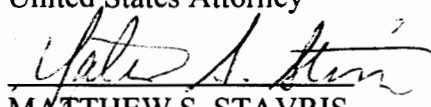
Also enclosed is a reproduction of the compact disc labeled "Data Disk 1-7, Lipo-CRF, C:\DATA\DOC #1," bates numbered JB 009709, included in the November 14, 2005 production as part of exhibit 3(t) to Christine Driscoll's January 11, 2005 testimony. The zip file contained on the disc had previously produced an error but now has been expanded and should be viewable. Please note that the disc is a mirror image of the files used as part of exhibit 3(t).

Should you have any questions or problems, do not hesitate to contact me at 617-748-3646.

Very truly yours,

MICHAEL J. SULLIVAN
United States Attorney

By:


MATTHEW S. STAVRIS
Healthcare Fraud Paralegal



U.S. Department of Justice

Michael J. Sullivan
United States Attorney
District of Massachusetts

Main Reception: (617) 748-3100

John Joseph Moakley United States Courthouse
1 Courthouse Way
Suite 9200
Boston, Massachusetts 02210

December 5, 2005

VIA FEDERAL EXPRESS

Mark A. Berman, Esq.
Gibbons, Del Deo, Dolan, Griffinger & Vecchione
One Riverfront Plaza
Newark, NJ 07102-5496

Re: United States v. Mary Stewart, et al.
Criminal No. 05-10102-JLT

Dear Mr. Berman:

It has been brought to our attention that the State Settlement Agreements, bates numbered JB 008618 - JB 009175, produced electronically on November 14, 2005 were largely illegible. Enclosed is a reproduction of those State Settlement Agreements.

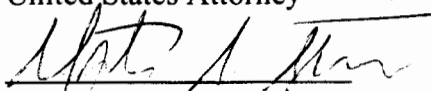
Also enclosed is a reproduction of the compact disc labeled "Data Disk 1-7, Lipo-CRF, C:\DATA\DOC #1," bates numbered JB 009709, included in the November 14, 2005 production as part of exhibit 3(t) to Christine Driscoll's January 11, 2005 testimony. The zip file contained on the disc had previously produced an error but now has been expanded and should be viewable. Please note that the disc is a mirror image of the files used as part of exhibit 3(t).

Should you have any questions or problems, do not hesitate to contact me at 617-748-3646.

Very truly yours,

MICHAEL J. SULLIVAN
United States Attorney

By:


MATTHEW S. STAVRIS
Healthcare Fraud Paralegal



U.S. Department of Justice

Michael J. Sullivan
United States Attorney
District of Massachusetts

Main Reception: (617) 748-3100

John Joseph Moakley United States Courthouse
1 Courthouse Way
Suite 9200
Boston, Massachusetts 02210

November 21, 2005

VIA FEDERAL EXPRESS

James M. Sullivan, Esq.
DLA Piper Rudnick Gray Cary
1200 Nineteenth Street, N.W.
7th Floor
Washington, DC 20036-2430

Re: **United States v. Melissa Vaughn, et al.**
Criminal No. 05-10102-JLT

Dear Mr. Sullivan:

Pursuant to our conversation last week, enclosed is a reproduction of the State Settlement Agreements, bates numbered JB 008618 - JB 009175, that were produced electronically on November 14, 2005 but were largely illegible.


Also enclosed is a reproduction of the compact disc labeled "Data Disk 1-7, Lipo-CRF, C:\DATA\DOC #1," bates numbered JB 009709, included in the November 14, 2005 production as part of exhibit 3(t) to Christine Driscoll's January 11, 2005 testimony. The zip file contained on the disc has been expanded and should be viewable. Please note that the disc is a mirror image of the files used as part of exhibit 3(t) and has not been manipulated.

Should you have any questions or problems, do not hesitate to contact me at 617-748-3646.

Very truly yours,

MICHAEL J. SULLIVAN
United States Attorney

By:


MATTHEW S. STAVRIS
Healthcare Fraud Paralegal

November 20, 2005

Page 2

cc: Adam S. Hoffinger, Esq. (w/o enclosures)



U.S. Department of Justice

Michael J. Sullivan
United States Attorney
District of Massachusetts

Main Reception: (617) 748-3100

John Joseph Moakley United States Courthouse
1 Courthouse Way
Suite 9200
Boston, Massachusetts 02210

January 30, 2006

VIA FEDERAL EXPRESS

Thomas McC. Souther, Esq.
Sidley, Austin, Brown & Wood, LLP
787 Seventh Avenue
New York, NY 10019

Mark Berman, Esq.
Gibbons, Del Deo, Dolan, Griffinger & Vecchione
One Riverfront Plaza
Newark, NJ 07102-5496

Adam S. Hoffinger, Esq.
Piper Rudnick
1200 Nineteenth Street, NW
Washington, DC 20036-2430

Attorney Tracy A. Miner
Mintz, Levin, Cohn, Ferris, Glovsky & Popeo, LLP
One Financial Center
Boston, MA 02111

Re: **United States v. John Bruens, et al.**
Criminal No. 05-10102-JLT

Dear Counsel:

Pursuant to Local Rule of Criminal Procedure 116.3(A), this letter responds to your letter dated January 13, 2006 requesting discovery on behalf of your respective clients.

General Responses and/or Objections:

The United States asserts these general responses and/or objections:

First, please be advised that the United States has complied with its obligations pursuant to Fed. R. Crim. P.16 and L.R. 116.1 and 116.2 and understands its continuing obligation. As you know, the government has provided each of you with a copy of Serono's Index of documents produced by the company; an electronic database that contains a significant portion of documents that were produced by Serono, individuals, and entities doing business with Serono; access to

approximately 1000 boxes of documents and information obtained during the investigation of Serono (most of which are included in the electronic database), and approximately 144 boxes of documents (with an Index) that are more specifically related to this Indictment. Most of these documents have been scanned and copied by the defendants. These documents continue to be available for your review from 9:00 a.m. to 5:00 p.m. five days a week. In addition, in an abundance of caution, we are enclosing an index of boxes produced by Serono that are among the 1000 boxes previously made available but which may not have been scanned into the electronic database. There are also miscellaneous boxes of documents produced by various witnesses that are available to be reviewed, copied and scanned. If you identify additional materials you wish to have scanned and copied, please let us know and we will make arrangements for you to do so.

Second, many of the requests in your January 13, 2006 letter ask for documents that are subject to the attorney work product privilege. As noted above, the government has previously produced voluminous documents and records to you to be reviewed, scanned and/or copied. Thus, many documents requested have been previously produced and made available to the defense. Many of the documents that are now specifically requested necessarily include documents that are or may be subject to the attorney work product privilege. Please be advised that the United States is not waiving the attorney work product privilege, or any other privilege, therefore, any documents that may be subject to any such privilege(s) will be withheld on that basis.

Third, many of the requests in your January 13, 2006 letter ask for production of agent notes. The United States will produce any agent notes of a statement by a defendant in accordance with the interpretation of Fed. R. Crim. P. 16 (a)(1)(B)(ii) as set forth in *United States v. Vallee*, 380 F.Supp.2d 11 (D. Mass. 2005). The remainder of the requests for agent notes are beyond the obligations of the United States and will not be produced, also in accordance with *United States v. Vallee*, 380 F.Supp. 2d at 14-15.

Fourth, the United States understands and continues to comply with its on-going discovery obligations as additional records or documents are obtained and come within its possession, custody and control.

Specific Responses and/or Objections:

In response to your additional specific requests for discovery, we respond seriatim as follows:

A. Discovery

At the outset, the government advised that since the prior production, additional documents have been requested and are in the process of being produced by Serono. When received, these documents will be made available to be reviewed, copied and/or scanned by the defendants.

The government responds to your specific discovery requests as follows:

1. All documents and materials in the possession of the United States Department of Health and Human Services, Food and Drug Administration, or any other relevant federal agency, that relate to any of the Defendants or physicians referred to in the indictment.

Response:

This request is overbroad as it requests documents and objects that are not material to the defense, or documents or objects that the government intends to use at trial or any other category of disclosures that come within Fed. R. Crim. P. 16 and L. R. 116.1 and 116.2. For example, documents that may be in the possession of the U.S. Department of Health and Human Services will include Medicaid and Medicare billings for services rendered by physicians referred to in the Indictment concerning patients who were never prescribed Serostim or who do not have a diagnosis of HIV or AIDS and therefore are not relevant to any issue presented in this Indictment. On the other hand, this request could also include patient records and/or other documents that relate to patients who suffer from HIV and/or AIDS, but who never were prescribed Serostim. This request may also contain documents that are subject to the protections of HIPAA and various state statutes that protect patient information relating to patients with HIV or AIDS and which are subject to the Protective Order previously entered by the Court in this case.

In order to appropriately respond to this request and determine the relevance or materiality of the records requests, if the defendants are able to further and more specifically identify documents or materials that come within the disclosure requirements of Rule 16 and L.R. 116.1 and 116.2, the government will review those specific requests for documents within the custody or control of the named agencies and respond accordingly.

2. Any and all notes of any state or federal agents who interviewed any of the Defendants, including, but not limited to, any notes authored by agents Michael J. English, Gregory Pringle, Cathy Plesha, and Kimberly Vagos.

Response:

Michael J. English and Gregory Pringle are investigators for the State of New Jersey who, unbeknownst to the United States, interviewed Marc Sirockman in a separate and unrelated investigation. We are advised that the notes of these agents are no longer in existence. At the time that the interview of Marc Sirockman was conducted, there was an informal policy and regular practice in their agency not to keep agent's notes, which was in accordance with case law in the State of New Jersey.

The interview notes of FBI Agents who interviewed the defendant Mary Stewart on

3/06/02 are attached in accordance with *United States v. Vallee*, 307 F.Supp.2d at 11.

3. An identification of all those physicians that were attendees at the Cannes conference at Serono's expense and that the government characterizes as "distinct" (see section G(6) of the May 31, 2005 discovery letter from AUSA Mary Elizabeth Carmody to Tracy A. Miner) from those physicians named in the indictment. Further, please provide all documents, materials, or other evidence on which the government bases its distinction or which support its statement that "the circumstances of those doctors are distinct from those doctors charged in the Indictment." Id.

Response:

All documents relevant to this request has been previously produced to the defendants in accordance with the requirements of Fed. R. Crim. P. 16 and L.R. 116.1 and 116.2. The United States declines to outline its theory of the case to the defendants.

4. Any and all documents, communications, or notes of communication between the qui tam plaintiffs, or the lawyers for the qui tam plaintiffs, and the government, concerning the settlements which they were offered or received, the allegations in the indictment, or related matters. Additionally, please produce any and all checks, wire transfers, or other evidence of the settlement payments paid out to the qui tam plaintiffs.

Response:

The United States has complied with its requirements under Fed. R. Crim. P. 16 and L.R. 116.1 and 116.2 by producing to the defendants documents relating to the qui tam actions, including but not limited to the complaints and settlement agreements; the statements of the qui tam relators; and copies of the Grand Jury transcripts of the qui tam plaintiffs. In addition, the government will make available to the defendants evidence of the settlement payments paid out to the qui tam plaintiffs which were not available at the time of the last disclosure. As set forth generally above, the United States objects to producing any documents that are subject to the attorney work product privilege. Documents reflecting any additional communications that come within the requirements under Fed. R. Crim. P. 16 and L.R. 116.1 and 116.2 will be produced to the defendants. The government is aware of its continuing obligations.

5. All documents or other materials relating to any other suits filed by any of the qui tam plaintiffs, including, but not limited to, the tape of qui tam plaintiff Frank Garcia's EEOC mediation with Serono.

Response:

This request is overbroad and well beyond the obligations of the United States under Rule 16 and the local rules. Moreover, the United States does not intend to introduce any such documents or materials in its case-in-chief, other than any documents previously produced. The government is aware of its continuing obligation should additional documents become available that are subject to disclosure obligations.

6. All documents quantifying the loss alleged to have been caused by the Defendants' conduct.

Response:

This request is also overbroad and well beyond the obligations of the United States under Rule 16 and the local rules. Nevertheless, the United States has already provided documents relevant to this request in the electronic database and boxes of documents made available to the defendants. Non-patient identifiable Serostim Medicaid State Drug Utilization Data is available to the general public at <http://www.cms.hhs.gov/MedicaidDrugRebateProgram/SDUD/list.asp>. In addition, if not already produced, the United States will make available to the defendants patient identifiable Medicaid billings to CMS to the extent available and subject to the protective order, as well as Serono's electronic databases containing information tangentially relevant to this request. The United States attaches hereto a copy of the final damage calculation relating to Serono (which is a confidential document not to be disclosed publically), as well as an index of electronic databases produced by Serono. At this time it is unclear whether all of these databases were included in the electronic database previously made available. Copies of the CDs can be made available at this time. Please advise which, if any, of these electronic databases you wish to have reproduced. The United States declines to provide any documents subject to the attorney work product privilege, other than the above damage calculation. Please contact the undersigned to arrange to view these records or obtain a copy of these databases.

7. All documents concerning the pricing of Serostim during the relevant time period (1997-1999).

Response:

This request is overbroad and well beyond the obligations of the United States under Rule 16 and the local rules. Nevertheless, the United States has already provided documents relevant to this request in the electronic database and boxes of documents already made available to the defendants. Non-patient identifiable Serostim Medicaid State Drug Utilization Data is available publically at <http://www.cms.hhs.gov/MedicaidDrugRebateProgram/SDUD/list.asp>. In addition, the United States will make available to the defendants the patient identifiable raw data of the Medicaid billings to CMS to the extent available and subject to the protective order, as well as Serono's electronic databases containing information tangentially relevant to this request as listed

in an index of electronic databases. These databases may include "best price" information, but that information is completely unrelated to any issue in this investigation. If the defendants wish to obtain "best price" information, please contact the undersigned. The United States declines to provide any documents subject to the attorney work product privilege. Please contact the undersigned to arrange to view the records listed above or to obtain a copy of the databases set forth above.

8. All documents quantifying the payments made by the federal government for Serostim for the relevant time period (1997-1999).

Response:

This request is overbroad and well beyond the obligations of the United States under Rule 16 and the local rules. Nevertheless, the United States has already provided documents relevant to this request in the electronic database and boxes of documents made available to the defendants. The Serostim Medicaid State Drug Utilization Data is available to the general public at <http://www.cms.hhs.gov/MedicaidDrugRebateProgram/SDUD/list.asp>. Nevertheless, as set forth above, the United States will make available to the defendants the patient identifiable raw data of the Medicaid billings, subject to the protective order. The United States declines to provide any documents subject to the attorney work product privilege. Please contact the undersigned to arrange to view these records.

9. All documents quantifying payments made by any states or their Medicaid programs, including New York, New Jersey and Florida, for Serostim for the relevant time period (1997- 1999).

Response:

This request is overbroad and well beyond the obligations of the United States under Rule 16 and the local rules. Nevertheless, the United States has already provided documents relevant to this request in the electronic database and boxes of documents made available to the defendants. As set forth above, non-identifiable patient Medicaid data is publically available; the United States will make the patient-identifiable Medicaid data available to the defendants subject to the protective order. The United States declines to provide any documents subject to the attorney work product privilege. Please contact the undersigned to arrange to view these records.

10. All documents concerning Federal and State (including Medicaid) reimbursement for Serostim prescribed for the patients of Drs. RL, P, DC, AC, O, G and W, as identified in ¶17 of the indictment, for the relevant time period (1997-1999), including, but not limited to, all documents evidencing reimbursement sought, as well as reimbursement obtained.

Response:

The United States has already provided documents relevant to this request in the electronic database and boxes of documents made available to the defendants. Again, as above, non-patient identifiable Medicaid data is publically available; the United States will make patient identifiable Medicaid data available to the defendants, the Serocare Database and patient records to the extent that they are presently in the custody of the United States -- all subject to the protective order. The United States declines to provide any documents subject to the attorney work product privilege. Please contact the undersigned to arrange to view these records.

11. All documents evidencing the amount of Serostim prescribed individually by Drs. RL, P, DC, AC, O, G and W during the relevant time period (1997-1999).

Response:

The United States is not in possession of all records that may be responsive to this request, but will provide any records that are in its possession, custody or control. Please contact the undersigned to arrange to view these records.

12. All patient records for the patients who were prescribed Serostim by Drs. RL, P, DC, AC, O, G and W during that relevant time period (1997-1999) that evidence:
 - a. Medical diagnoses;
 - b. The date the drug was prescribed;
 - c. The dosing and dosage prescribed; and
 - d. Whether the prescription was filled, and if so, the date it was filled.

Response:

The United States is not in possession of all documents responsive to 12 (a)-(d), but has or will continue to make available to the defendants all records responsive to this request that are in its possession, custody or control. The United States has already provided such information as part of the electronic database, in the NDC data and Box 31 that was scanned by the defendants. Please contact the undersigned to arrange to view any patient records in our possession.

13. All documents evidencing the alleged daily reports of prescriptions obtained, as alleged in ¶27 of the indictment.

Response:

Any records that are in the possession, custody or control of the United States have been provided to the defendants, including but not limited to the records of Drs. Corazon and Piperato that have been scanned by the defendants.

14. All documents concerning the "promises to certain other witnesses" that the government has thus far declined to produce, as referenced in section G(3) of the May 31, 2005 discovery letter from AUSA Mary Elizabeth Carmody to Tracy A. Miner.

Response:

Any records that are in the possession, custody or control of the United States were provided to the defendants in its supplemental production on November 14, 2005. The United States is also making available additional materials in response to request no. 4.

15. The document titled, "Serono AIDS Investigator Survey Agreement," as referenced in the 01/30/2003 (date of investigation) 302 Report concerning Alexis Corazon.

Response:

This was provided to the defendants in Box 47.

16. The interview notes, business card of Irene Delgado, and ChoicePoint results and accompanying paperwork, as referenced in the 02/04/2003 (date of investigation) 302 Report concerning Joseph Piperato.

Response:

The business card of Irene Delgado and the Choice Point results are attached. The United States is not obligated to and declines to produce "interview notes" of witnesses.

17. The following documents referenced in the 03/16/2003 (date of investigation) 302 Report concerning Joseph Piperato:
 - a. Two BIA print outs;
 - b. E-mail dated February 9, 1998;
 - c. Two checks from Serono, dated December 3, 1998 and February 11, 1999, and all documents relating to those checks;

- d. E-mail dated February 26, 1999;
- e. Whitehurst expense report dated April 18, 1999;
- f. American Express statement of Womble; and
- g. List of "Dinner Invitees and Responses."

Response:

With the exception of subpart a (which is attached), these documents were produced as part of the electronic database or other production:

- b. E-mail dated February 9, 1998;
-- at S Elec 0070766;
- c. Two checks from Serono, dated December 3, 1998 and February 11, 1999,
and all documents relating to those checks;
-- in Box 47
- d. E-mail dated February 26, 1999;
--at S Elec 0698599
- e. Whitehurst expense report dated April 18, 1999;
--S0710433; S0710436;
- f. American Express statement of Womble; and
--Box 106
- g. List of "Dinner Invitees and Responses."
--Box 106

18. The following documents referenced in the 02/12/2003 (date of investigation) 302 Report concerning Howard Alan Grossman, M.D.:

- a. Letter from Sue Womble dated "March 31, 199" (sic); and
- b. Document indicating that Grossman committed to conducting "two regional speaking programs."

Response:

These documents were produced in Box 113.

19. The following documents and exhibits referenced in the transcript of the March 16, 2004 grand jury transcript of Howard Alan Grossman, M.D.:

- a. Medicaid patient listing, first referenced at Page 44;

- b. 1999 appointment book, first referenced at Page 47;
- c. Power Point Presentation, first referenced at Page 86;
- d. E-mail dated April 4, 1999, first referenced at Page 81;
- e. The facsimile first referenced at Page 64 of the transcript;
- f. The "Transmission Report" first referenced at Page 67 of the transcript;
- g. The document/note first referenced at Page 70 of the transcript;
- h. The account profile first referenced at Page 72 of the transcript; and
- i. The document first referenced at Page 79 of the transcript.

Response:

These documents were produced as part of the electronic database or other production except for the appointment book, which can be viewed by contacting the undersigned Assistant U.S. Attorney. In order to facilitate your review, duplicate copies of items a, c-i are attached.

- 20. The 1999 calendars or appointment books (hard copy and electronic copy, including any such information on a personal digital assistant) for Drs. RL, P, DC, AC, O, G and W.

Response:

The documents that are in the custody of the United States have been previously produced. The documents relating to Dr. Piperato are in Box 87; the documents relating to Dr. Corazon are in Box 47; the original of Dr. Grossman's book can be viewed at the United States Attorney's Office. We are not in possession of any appointment books of Drs. Condolucci, Liporace, Olmsheid or Wallack.

- 21. The documents reviewed by the FBI Questioned Documents Unit, as identified in reports dated October 7, 2004 and May 5, 2004.

Response:

Please contact the undersigned to arrange a time and date to view any such documents in the possession, custody and control of the United States.

- 22. The following documents referenced in the 03/06/2002 (date of investigation) 302

Report concerning Mary Kathleen Stewart:

- a. Document titled, "Serostim Preferred Partner Program, Preferred Provider Impact";
- b. Document titled, "BIA Fluid -Nutrition Assessment";
- c. Document titled, "Metabolic Immune Therapy, Mary Stewart, Vice President, Sales";
- d. Document titled, "Open Label Study to Determine the Effect of Low Dose Growth Hormone on Visceral Fat Accumulation in HIV-Infected Patients"; and
- e. Document titled, "Serono, Notice of Compliance."

Response:

The government has attached all documents referred to in the report of Mary Stewart's interview, which include documents in addition to those listed in subparagraphs a-e above.

- 23. All documents which evidence how the memorandum purporting to set forth the contents of Melissa Vaughn's voice-mail to John Bruens on March 3, 1999, (bates no. MMS 00213) was created.

Response:

The Grand Jury testimony of Kimberly Jackson was previously produced. The United States declines to produce any notes that are subject to attorney work-product privilege or agent notes of witness interviews, except as they may otherwise be required to be disclosed pursuant to Rule 16 and L.R. 116.1 and 116.2.

- 24. A tape recording of what has been described as the March 3, 1999 voicemail from Melissa Vaughn to John Bruens.

Response:

To the government's knowledge, no such tape recording exists.

25. Any and all testimony which purports to recount any statements made by a Defendant.

Response:

This request is overbroad and goes well beyond any requirements of Rule 16. In addition, the United States is not required to produce any Jencks Acts materials at this time.

26. Any documents relating to Priority Pharmacy.

Response:

Documents responsive to this request were previously provided in the electronic database and the boxes of materials produced by the United States, including but not limited to Box 118 and Box 129. Additional materials may be contained in electronic databases that are being made available to the defendants. A copy of a power point presentation is attached.

27. Grand jury exhibits relating to all grand jury testimony that has been produced by you to date.

Response:

To the extent that such materials were not already produced, they are attached in response to this and other requests.

28. All documents relating to Ellen Frank.

This request is overbroad and well beyond the requirements of Rule 16 and L.R. 116.1 and 116.2. Nevertheless, any responsive documents were provided as part of the electronic database and other hard copy production, including but not limited to Box 101 and R-782.

Response:

29. All documents relating to the following individuals who were cited in grand jury testimony and interview notes provided by the government: Chris Englert, Ken Staffey, Jeff Hart, Rebecca Savage, Dr. David Wheeler, Dr. Joel Gallant, Dr. Bruce Rashbaum, Jim Raymond, Cindy Bell, Russell Reserve, and Mary Sziemplinski.

Response:

This request is overbroad and well beyond the requirements of Rule 16 and L.R. 116.1 and 116.2. Nevertheless, any responsive documents, save for Grand Jury testimony that is not

required to be produced at this time, were provided as part of the electronic database and other hard copy production, including but not limited to Box 100-101 and 104.

30. All documents relating to Roger Anderson.

Response:

This request is overbroad and well beyond the requirements of Rule 16 and L.R. 116.1 and 116.2. Nevertheless, any responsive documents, save for Grand Jury testimony that is not required to be produced at this time, were provided as part of the electronic database and other hard copy production, including but not limited to Box 47.

31. All documents relating to other conferences for which Serono sponsored physicians.

Response:

This request is overbroad and well beyond the requirements of Rule 16 and L.R. 116.1 and 116.2. Nevertheless, any responsive documents, save for Grand Jury testimony that is not required to be produced at this time, were provided as part of the electronic database and other hard copy production. Documents relating to payments can be found in the accounts payable database which has been and is again being made available to the defendants.

32. All documents relating to HIV-AIDS-related speaking engagements by Drs. RL, P, DC, AC, O, G and W, including records of any honorarium payments made in connection therewith.

Response:

This request is overbroad and well beyond the requirements of Rule 16 and L.R. 116.1 and 116.2. Nevertheless, any responsive documents, save for Grand Jury testimony that is not required to be produced at this time, were provided as part of the electronic database and other hard copy production. Documents relating to payments can be found in the accounts payable database which has been and is again being made available to the defendants.

B. Bill of Particulars

In addition, and as more fully described below, Defendants request a bill of particulars as to certain of the allegations in the indictment returned on April 14, 2005. Specifically, Defendants request a bill of particulars setting forth the following:

1. The identification of all persons and/or entities referred to in the indictment by

description, title, or code. Specifically, Defendants ask that you identify the following:

- a. Executive X, first referenced in ¶4 of the indictment; and
- b. Drs. RL, P, DC, AC, O, G and W, first referenced in ¶17 of the indictment.

Response:

- a. Executive X is Ellen Frank;
 - b. RL is Ralph Liporace; P is Joseph Piperato; DC is David Condolucci; AC is Alexis Corazon; O is Bruce Olmsheid; G is Howard Grossman; W is Jeffrey Wallach.
2. The particular alleged conduct, other than the offer to physicians to attend the Cannes conference as alleged and described in ¶¶24-52 of the indictment, that the government considers to be part of the alleged scheme to offer or pay kickbacks to physicians, as referenced in section H of the May 31, 2005 discovery letter from AUSA Mary Elizabeth Carmody to Tracy A. Miner ("the government may offer evidence that defendant engaged in a scheme to offer or pay kickbacks to physicians not specifically referred to in the Indictment"), including:
- a. When, where, and in what manner each individual defendant engaged in such conduct; and
 - b. Each person with whom the defendant engaged in such conduct with.

Response:

The United States declines to respond to these questions as beyond the scope of its discovery obligations. Given the detailed Indictment in this case, a bill of particulars is not warranted.

3. The particular manner and means by which each unindicted co-conspirator is alleged to have:
- a. joined the alleged conspiracy to knowingly and willfully offer and pay to attend the conference in Cannes, France in exchange for writing additional prescriptions of Serostim, including when each co-conspirator joined the conspiracy, each person with whom they agreed to commit any offense listed in the indictment, and how such agreement occurred (orally, in

writing, or by non-verbal communication); and

- b. carried out the alleged conspiracy, including when and where such acts occurred, and whether such acts involved one of the Defendants.

Response:

The United States declines to respond to these questions as beyond the scope of its discovery obligations. Given the detailed Indictment in this case, a bill of particulars is not warranted.

C. Fed. R Evid. 404(b) Discovery

Finally, pursuant to Fed. R. Evid. 404(b), Defendants request that the government identify the other alleged crimes, wrongs, or acts it intends to offer with respect to each Defendant, by Defendant, "to establish, among other things, intent, knowledge, plan and absence of mistake or accident under Fed. R. Evid. 404(b)," and produce any supporting documents or materials. In light of the approaching trial date and the review of millions of pages of documents the Defendants must undertake, it is critical (and thus eminently "reasonable" under Fed. R. Evid. 404(b)'s "reasonable notice" standard) that the government now identify the "evidence that defendant engaged in a scheme to offer or pay kickbacks to physicians not specifically referred to in the indictment" (see section H section G(3) of the May 31, 2005 discovery letter from AUSA Mary Elizabeth Carmody to Tracy A. Miner), and other 404(b) material that it intends to offer. As identification of 404(b) evidence is relevant to severance decisions, Defendants will request that any severance motions not be required to be filed until receipt of the list of this evidence with respect to each Defendant.

Response:

Local Rule 117.1(A)(4)(b) requires that the government produce a general description including date, time, and place of any crime, wrong or act the government intends to offer pursuant to Fed. R. Evid. 404(b) no later than 21 days before trial. Recognizing that there are voluminous documents in this case, the Government has previously provided notice that it may seek to introduce evidence that may be admitted pursuant to Fed. R. Evid. 404(b). The United States may offer evidence that the defendants engaged in schemes to offer or pay kickbacks to physicians not specifically referred to in the Indictment or schemes not specifically referred to in the Indictment. This evidence will include both testimony and documents (which have either been produced or will be made available to you). The government considers this evidence directly relevant to the conspiracy alleged in Count 1 of the Indictment. Should the Court disagree with the government, the government may offer this evidence pursuant to Fed. R. Evid. 404(b) in order to establish, among other things, intent, knowledge, plan, and absence of mistake or accident.

Government's Second Request for Reciprocal Discovery:

The government has previously requested reciprocal discovery pursuant to Rule 16(b) of the Federal Rules of Criminal Procedure and Local Rule 116.1(D). Please provide any such discovery on or before February 15, 2006.

Additional Production:

The following items are enclosed: Immunity Order for Adam Whitehurst; and signed copies of the proffer letters for Lawrence Higgins, M.D. and Jeffery Lynch. These letters were either not available or were inadvertently omitted from our last production.

Copies of e-mail CDs S Elec 108-110, which we have discovered were not included in the electronic database, will be made available to each of the defendants.

Please call the undersigned Assistant U.S. Attorney at (617) 748-3290 if you have any questions regarding any of these matters.

Very truly yours,

MICHAEL J. SULLIVAN
United States Attorney

By:


MARY ELIZABETH CARMODY
Assistant U.S. Attorney

Enclosures

cc: United States District Judge Joseph L. Tauro
(w/o enclosures)(Filed Under Seal)

United States Magistrate Judge Marianne B. Bowler
(w/o enclosures) (Filed Under Seal)

SERONO: BOXES THAT MAY NOT HAVE BEEN SCANNED

Origin	Box	Contents
Serono, Inc.	R-58	Joyce Finkelstein Box #11 and #8
	R-110	Serostim Mktg Pink Folders Box #9 8181-8199
	R-113	Pink Folders Box #10 99-8200-00-8247 Serostim MENA
	R-114	Pink Folders Box #1 00-8250-00-8319 Serostim MENA
	R-120	MENA Mktg Pink Folders M&IT SBU Bulletin Binder 10/99 - 12/99
	R-135	Ryan Whitecare Act
	R-143	D. Kemp 6700 Serostim Mtg. Pink Folders 8121-8159 Box #7
	R-313 - R-318	M. Frachette Documents
	R-324	M. Frachette Documents
	R-341	M. Frachette Documents
	R-349 - R-350	Serostim Study
	R-352 - R-373	Serostim Study
	R-382	M&IT Library
	R-384	M&IT Library
	R-390 - R-392	M&IT Library
	R-397	MIT - M. Carlson
	R-401	M&IT Library
	R-404	M&IT Library
	R-410	MRS Team TIND PT Files
	R-411	MRS Team TIND PT Files
	R-412	TIN DPT Files MRS Team
	R-413	MRS Team TIND PT Files
	R-415	Reimbursement Serostim & TIND Patient files dropouts L-MA

R-418	TIND Files of Reimbursement Services Association
R-419	Serostim Files of Reimbursement Services Association
R-420	M&IT Library
R-423	Serostim TIND Files Reimbursement Services Association
R-428	Serostim TIND Files Reimbursement Services Association
R-430	Serostim TIND Patient Files Dropouts N, O, PE
R-431	Serostim
R-432	Serostim Reimbursement Files
R-433	Reimbursement Serostim Pt. Files Dropouts R
R-434	Reimbursement Serostim Pt. Files Dropouts I, J, K
R-435	Reimbursement Dropouts Mc-My
R-436	Norma Muurahainen
R-441 - R-442	Norma Muurahainen
R-444 - R-445	Norma Muurahainen
R-452 - R-476	Karen Currie - Serostim Study
R-476A	Pages left intentionally blank
R-477 - R-494	Karen Currie - Serostim Study
R-496	Karen Currie - Serostim Study
R-498	Karen Currie - Serostim Study
R-501	Karen Currie - Serostim Study
R-503	Karen Currie - Serostim Study
R-505	Serostim 5341, 5511, 7033 Correspondence, CRF copy, protocol, misc.
R-506	John Able Files
R-508	Serostim NDA 5431, 5511, 7033 Outside Labs
R-510	Protocol 7623
R-513	Serostim NDA 5341, 5511, 7033 Outside Labs

R-514	Karen Currie - Serostim Study
R-515	Karen Currie - Serostim Study
R-516	Karen Currie - Serostim Study
R-517	Karen Currie - Serostim Study
R-520	Serostim NDA 120 day update 5511, 7035, 7623 Misc. Files 5341, 5511, 7033, 4795 Cofs
R-525	Serostim NDA 5341, 5511, 7033 Audits
R-526	Serostim Treatment Form
R-529	John Able Files
R-533	Serostim Study Dividers 7623 Case Rpt Forms
R-537	Medicaid Rebate 92-96
R-538	Serono Symposia
R-540	7623 Case Report Forms, Serostim Life Status Forms
R-543	Protocol 7623, 95-97
R-552	Protocol 7623, 95-97
R-554	Serostim Study Cust. Box
R-558	Protocol 7623, 95-97
R-560	Serostim TIND
R-561	Serostim TIND
R-567	AIDS Healthcare & Foundation Information
R-577	SeronAIDS - Phase I Site Data
R-578	Serostim TIND
R-579	M&IT
R-582	Original Contracts "C"
R-583	Bob Lederer
R-584	Original Contracts "P" & "Q"
R-586	SeronAIDS - Phase I Site Data

R-589	Bob Lederer
R-593	Contracts L-M
R-594	SeronAIDS - Phase I Site Data
R-595	Bob Lederer
R-597	SeronAIDS - Phase I Site Data
R-600	SeronAIDS - Phase I Site Data
R-601	Bob Lederer
R-605	Original Contracts "A"
R-607	Contracts N-P
R-609	SeronAIDS - Phase I Site Data
R-615	Growth Hormone Health Insurance
R-616	Original Contracts "J" and "K"
R-630	"Project Inform" Documents
R-638	Original Contracts "E"
R-641	SeronAIDS - Phase I Data
R-643	Original Contracts "S"
R-670	Contracts E-H
R-671	Contract Cons-D
R-675	Contracts CO
R-677	Contracts T-Z
R-683	Contract HRI
R-692	Karen Currie - Serostim Study
R-692A	Serostim Preferred Partner Program Agreement Sample Documents
R-693	Karen Currie - Serostim Study
R-694	Karen Currie - Serostim Study
R-695	Karen Currie - Serostim Study

R-696	Karen Currie - Serostim Study
R-697	Karen Currie - Serostim Study
R-698	Karen Currie - Serostim Study
R-699	Karen Currie - Serostim Study
R-700	Karen Currie - Serostim Study
R-701	Karen Currie - Serostim Study
R-702	Karen Currie - Serostim Study
R-703	Personnel files
R-704	Personnel files
R-705	Personnel files
R-706	Personnel files
R-707	Personnel files
R-710	J. Larson
R-712	J. Larson
R-713	J. Larson
R-714	J. Larson
R-715	J. Larson
R-716	J. Larson
R-717	J. Larson
R-720	MENA Account Payable
R-741	A. Civetti
R-744	A. Civetti
R-748	John Abel
R-760	Original Contracts W-Z
R-766	Jeff Hart
R-781	SeronAIDS - Phase I Site Data

R-782	M&IT, R. Azulay, E. Frank, N. Muurahainen
R-783	MENA
R-785	Personnel files
R-787	Videos
R-798	GELCO Expense Reports
R-800	GELCO Expense Reports
R-801	GELCO Expense Reports
R-806	GELCO Expense Reports
R-807	Personnel files
R-812	Videos
R-817	GELCO Expense Reports
R-825	Finance Department
R-826	Eric Tisch
R-827	M&IT
R-828	Ernesto Bertarelli
R-829	Ernesto Bertarelli
R-830	Ernesto Bertarelli
R-831	J. Theurillat
R-832	J. Theurillat
R-833	J. Theurillat
R-834	F. Rubio-Sandi
R-840	J.P. Verhassel
R-841	J.P. Verhassel
R-842	J.P. Verhassel
R-843	M. Gehring
R-844	M. Gehring

R-846	See Index Re: Document Redacted For Privilege Produced on October 17, 2003
R-847	Tom Hallam
R-849	M&IT
R-861 A&B	GELCO Expense Reports
R-866	R. Galinsky
R-867	L. Constantino
R-868	R. Galinsky
R-869 A&B	GELCO Expense Reports
R-870	Human Resource
R-871	Human Resource
R-872 A&B	GELCO Expense Reports
R-873 A&B	GELCO Expense Reports
R-874 - R-925	MRS Department
R-927	Video Tapes
R-928	Audio Tapes
R-929	Human Resources
R-932	L. Constantino
R-933	K. Wills
R-934	D. Kemp
R-935	K. Wills
R-936	See Index Re: Document Redacted For Privilege Produced on October 15, 2004
R-937	R. Rhinehart
R-938	D. Kemp
R-940	PowerPoint Presentation Re: Scope of Serostim Indication: AIDS Wasting
R-943	PowerPoint Presentation RE: Lipodystrophy
R-944	PowerPoint Presentation Re: BIA and Pharmacies

R-945	Employee List
R-946	Employee List and February 7, 2005 Presentation
R-947	Personnel files
R-948	J. Hart
R-949	J. Hart
R-950	J. Hart
R-951	
R-952	Previously Withheld Documents
R-953	Previously Withheld Documents



U.S. Department of Justice

Michael J. Sullivan
United States Attorney
District of Massachusetts

Main Reception: (617) 748-3100

John Joseph Moakley United States Courthouse
1 Courthouse Way
Suite 9200
Boston, Massachusetts 02210

February 27, 2006

VIA E-MAIL AND FEDERAL EXPRESS

Thomas McC. Souther, Esq.
Sidley, Austin, Brown & Wood, LLP
787 Seventh Avenue
New York, NY 10019

Mark Berman, Esq.
Gibbons, Del Deo, Dolan, Griffinger & Vecchione
One Riverfront Plaza
Newark, NJ 07102-5496

Adam S. Hoffinger, Esq.
Piper Rudnick
1200 Nineteenth Street, NW
Washington, DC 20036-2430

Attorney Tracy A. Miner
Mintz, Levin, Cohn, Ferris, Glovsky & Popeo, LLP
One Financial Center
Boston, MA 02111

Re: United States v. John Bruens, et al.
Criminal No. 05-10102-JLT

Dear Counsel:

This letter follows our conference call and various telephone calls regarding the defendant's discovery issues in this case, responds to your letter dated February 8, 2006, and, encloses additional production of discovery to the defendants:

1. The revised and narrowed discovery request regarding "investigation materials related to the investigation of any defendant or physician referred to in the Indictment, that are in the possession of the United States Department of Health and Human Services, Food and Drug Administration, or any other relevant federal agency."

Response:

To date, and after appropriate inquiries, the government has not discovered any such materials. The government is aware of its continuing obligations and reserves the

objections previously set forth in its January 31, 2006 letter.

2. As previously discussed, copies of the CD's containing the electronic databases SCD 0000001-14, SCD 0000016-17, and SCD 0000020-22, are enclosed with a copy for each defense counsel.
3. Also as previously discussed, enclosed are 62 CD's that contain "tif images" of 248 of the approximately 313 boxes that may not have been included in the initial discovery database.¹ Four of the remaining boxes contain video and audio tapes. Copies of the video and audio tapes have either already been disclosed or will shortly be disclosed. The government is in the process of verifying which videos were already produced and will provide copies of any that may not have been previously disclosed.

The remaining 61 boxes, a majority of which are unrelated to the instant Indictment, are available for you to review at the office of the United States Attorney. An index is enclosed for your information and to aid you in determining which boxes you wish to review. These documents continue to be available for your review from 9:00 a.m. to 5:00 p.m. five days a week. Please contact the undersigned to arrange a convenient time for inspection of these documents.

4. Supplemental response to request no. 5, requesting: "[a]ll documents or other materials relating to any other suits filed by any of the qui tam plaintiffs, including, but not limited to, the tape of qui tam plaintiff Frank Garcia's EEOC mediation with Serono."

Response:

Enclosed is the docket report in *United States ex. rel. Driscoll*, C.A. No. 94-11491-RWZ, which directs you to records that are publicly available. As stated previously, the remainder of this request is overbroad and well beyond the obligations of the United States under Rule 16 and the local rules. Moreover, the United States does not intend to introduce any such documents or materials in its case-in-chief, other than any documents previously produced. In addition, this request asks for documents that are subject to the attorney work product privilege. Please be advised once again that the United States is not waiving the attorney work product privilege, or any other privilege, therefore, any documents that may be subject to any such privilege(s) will be withheld on that basis. Finally, this request may necessarily encompass agent notes. The United States will not produce any agent notes beyond the obligations set forth in *United States v. Vallee*, 380

¹ As time is of the essence and the United States does not presently have the personnel to upload the 62 CD's into individual databases, it is more time efficient for all parties for the United States to disclose one set of these 62 CD's to the defense, Attorney Tracy Miner, on behalf of each of the defendants. Attorney Miner can then coordinate distribution of the CD's to add to the database for each defendant.

F.Supp. 2d at 14-15.

5. **Supplemental response to your requests nos. 6, 7, 7, 9 and 10:**

Response:

In addition to its previous disclosures, enclosed are 4 CDs containing the Medicaid Data for Serostim.

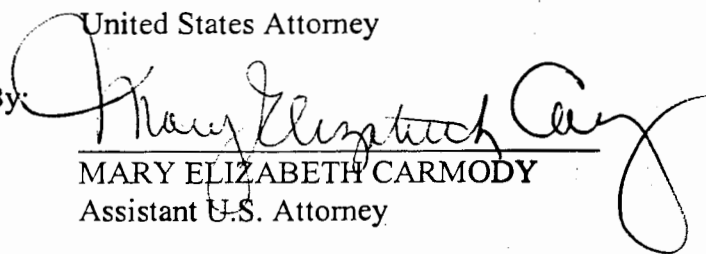
6. As we advised in our January 31, 2006 letter and during our conference call, copies of e-mail CDs S Elec 108 and 109 are enclosed for each of the defendants. In our last letter we mentioned an S Elec 110 -- we have confirmed with the company that there is no 110.
7. Also enclosed are documents from Florida Medicaid relating to CommCare Pharmacy, which we just received from the State of Florida.

Please do not hesitate to telephone the undersigned at (617) 748-3290 if you have any questions regarding any of these matters.

Very truly yours,

MICHAEL J. SULLIVAN
United States Attorney

By:


MARY ELIZABETH CARMODY
Assistant U.S. Attorney

Enclosures

Origin	Box	Contents	USAO Bates Number
Serono, Inc.	R-58	Joyce Finkelstein Box #11 and #8	Available for review
	R-110	Serostim Mktg Pink Folders Box #9 8181-8199	Available for review
	R-113	Pink Folders Box #10 99-8200-00-8247 Serostim MENA	Available for review
	R-114	Pink Folders Box #1 00-8250-00-8319 Serostim MENA	Available for review
	R-120	MENA Mktg Pink Folders M&IT SBU Bulletin Binder 10/99 - 12/99	Available for review
	R-135	Ryan Whitecare Act	Available for review
	R-143	D. Kemp 6700 Serostim Mtg. Pink Folders 8121-8159 Box #7	Available for review
	R-313	M. Frachette Documents	Available for review
	R-314	M. Frachette Documents	Available for review
	R-315	M. Frachette Documents	Available for review
	R-316	M. Frachette Documents	Available for review
	R-317	M. Frachette Documents	Available for review
	R-318	M. Frachette Documents	Available for review
	R-324	M. Frachette Documents	JB 010241
	R-341	M. Frachette Documents	JB 010241
	R-349	Serostim Study	Available for review
	R-350	Serostim Study	Available for review
	R-352	Serostim Study	Available for review
	R-353	Serostim Study	JB 010238
	R-354	Serostim Study	Available for review
	R-355	Serostim Study	JB 010236
	R-356	Serostim Study	JB 010236
	R-357	Serostim Study	JB 010236
	R-358	Serostim Study	JB 010236
	R-359	Serostim Study	JB 010236
	R-360	Serostim Study	JB 010237
	R-361	Serostim Study	JB 010238
	R-362	Serostim Study	JB 010238
	R-363	Serostim Study	JB 010238
	R-364	Serostim Study	JB 010237
	R-365	Serostim Study	JB 010237
	R-366	Serostim Study	JB 010238
	R-367	Serostim Study	JB 010238
	R-368	Serostim Study	JB 010238
	R-369	Serostim Study	JB 010237

R-370	Serostim Study	JB 010238
R-371	Serostim Study	JB 010238
R-372	Serostim Study	JB 010237
R-373	Serostim Study	JB 010237
R-382	M&IT Library	Available for review
R-384	M&IT Library	JB 010242
R-390	M&IT Library	JB 010239
R-390 B	M&IT Library	JB 010241
R-391	M&IT Library	JB 010240
R-392	M&IT Library	JB 010241
R-397	MIT - M. Carlson	JB 010243
R-401	M&IT Library	JB 010241
R-404	M&IT Library	JB 010241
R-410	MRS Team TIND PT Files	JB 010244
R-411	MRS Team TIND PT Files	JB 010243
R-412	TIN DPT Files MRS Team	JB 010243
R-413	MRS Team TIND PT Files	JB 010242
R-415	Reimbursement Serostim & TIND Patient files dropouts L-MA	JB 010242
R-418	TIND Files of Reimbursement Services Association	Available for review
R-419	Serostim Files of Reimbursement Services Association	JB 010245
R-420	M&IT Library	JB 010243
R-423	Serostim TIND Files Reimbursement Services Association	JB 010264
R-428	Serostim TIND Files Reimbursement Services Association	JB 010244
R-430	Serostim TIND Patient Files Dropouts N, O, PE	JB 010246
R-431	Serostim	JB 010246
R-432	Serostim Reimbursement Files	JB 010247
R-433	Reimbursement Serostim Pt. Files Dropouts R	JB 010246
R-434	Reimbursement Serostim Pt. Files Dropouts I, J, K	JB 010247
R-435	Reimbursement Dropouts Mc-My	JB 010244
R-436	Norma Muurahainen	JB 010247
R-441	Norma Muurahainen	JB 010248
R-442	Norma Muurahainen	JB 010249
R-444	Norma Muurahainen	JB 010250
R-445	Norma Muurahainen	JB 010249
R-452	Karen Currie - Serostim Study	JB 010246
R-453	Karen Currie - Serostim Study	JB 010246
R-454	Karen Currie - Serostim Study	JB 010255

R-455	Karen Currie - Serostim Study	JB 010251
R-456	Karen Currie - Serostim Study	JB 010268
R-457	Karen Currie - Serostim Study	JB 010279
R-458	Karen Currie - Serostim Study	JB 010249
R-459	Karen Currie - Serostim Study	JB 010249
R-460	Karen Currie - Serostim Study	JB 010242, JB 010259
R-461	Karen Currie - Serostim Study	JB 010250
R-462	Karen Currie - Serostim Study	JB 010249
R-463	Karen Currie - Serostim Study	JB 010258
R-464	Karen Currie - Serostim Study	Available for review
R-465	Karen Currie - Serostim Study	JB 010252
R-466	Karen Currie - Serostim Study	JB 010253
R-467	Karen Currie - Serostim Study	JB 010253
R-468	Karen Currie - Serostim Study	JB 010254
R-469	Karen Currie - Serostim Study	JB 010251
R-470	Karen Currie - Serostim Study	JB 010254
R-471	Karen Currie - Serostim Study	JB 010249
R-472	Karen Currie - Serostim Study	JB 010255
R-473	Karen Currie - Serostim Study	JB 010255
R-474	Karen Currie - Serostim Study	JB 010253
R-475	Karen Currie - Serostim Study	JB 010256
R-476	Karen Currie - Serostim Study	JB 010265
R-476A	Pages left intentionally blank	JB 010257
R-477	Karen Currie - Serostim Study	JB 010254
R-478	Karen Currie - Serostim Study	JB 010255
R-479	Karen Currie - Serostim Study	JB 010264
R-480	Karen Currie - Serostim Study	JB 010258
R-481	Karen Currie - Serostim Study	JB 010259
R-482	Karen Currie - Serostim Study	JB 010259
R-483	Karen Currie - Serostim Study	JB 010264
R-484	Karen Currie - Serostim Study	JB 010261
R-485	Karen Currie - Serostim Study	JB 010261
R-486	Karen Currie - Serostim Study	JB 010260
R-487	Karen Currie - Serostim Study	JB 010264
R-488	Karen Currie - Serostim Study	JB 010247
R-489	Karen Currie - Serostim Study	JB 010261
R-490	Karen Currie - Serostim Study	JB 010261

R-491	Karen Currie - Serostim Study	JB 010269
R-492	Karen Currie - Serostim Study	JB 010265
R-493	Karen Currie - Serostim Study	JB 010255
R-494	Karen Currie - Serostim Study	JB 010259
R-496	Karen Currie - Serostim Study	JB 010262, JB 010263
R-498	Karen Currie - Serostim Study	JB 010262, JB 010263
R-501	Karen Currie - Serostim Study	JB 010263
R-503	Karen Currie - Serostim Study	JB 010264
R-505	Serostim 5341, 5511, 7033 Correspondence, CRF copy, protocol, misc.	JB 010279
R-506	John Able Files	JB 010265
R-508	Serostim NDA 5431, 5511, 7033 Outside Labs	Available for review
R-510	Protocol 7623	JB 010266
R-513	Serostim NDA 5341, 5511, 7033 Outside Labs	JB 010251
R-514	Karen Currie - Serostim Study	JB 010265
R-515	Karen Currie - Serostim Study	JB 010247
R-516	Karen Currie - Serostim Study	JB 010269
R-517	Karen Currie - Serostim Study	JB 010247
R-520	4795 Cofs	JB 010267
R-525	Serostim NDA 5341, 5511, 7033 Audits	JB 010266
R-526	Serostim Treatment Form	JB 010268
R-529	John Able Files	JB 010268
R-533	Serostim Study Dividers 7623 Case Rpt Forms	JB 010269
R-537	Medicaid Rebate 92-96	JB 010271
R-538	Serono Symposia	JB 010283
R-540	7623 Case Report Forms, Serostim Life Status Forms	JB 010270
R-543	Protocol 7623, 95-97	JB 010254
R-552	Protocol 7623, 95-97	JB 010269
R-554	Serostim Study Cust. Box	JB 010270
R-558	Protocol 7623, 95-97	JB 010248
R-560	Serostim TIND	JB 010269
R-561	Serostim TIND	JB 010248
R-567	AIDS Healthcare & Foundation Information	JB 010277
R-577	SeronAIDS - Phase I Site Data	Available for review
R-578	Serostim TIND	JB 010271
R-579	M&IT	JB 010275
R-582	Original Contracts "C"	JB 010270
R-583	Bob Lederer	JB 010271

R-584	Original Contracts "P" & "Q"	JB 010275
R-586	SeronAIDS - Phase I Site Data	Available for review
R-589	Bob Lederer	JB 010271
R-593	Contracts L-M	JB 010273
R-594	SeronAIDS - Phase I Site Data	JB 010271
R-595	Bob Lederer	JB 010272
R-597	SeronAIDS - Phase I Site Data	JB 010272
R-600	SeronAIDS - Phase I Site Data	Available for review
R-601	Bob Lederer	Available for review
R-605	Original Contracts "A"	JB 010273
R-607	Contracts N-P	JB 010296
R-609	SeronAIDS - Phase I Site Data	Available for review
R-615	Growth Hormone Health Insurance	Available for review
R-616	Original Contracts "J" and "K"	JB 010273
R-630	"Project Inform" Documents	Available for review
R-638	Original Contracts "E"	JB 010275
R-641	SeronAIDS - Phase I Data	JB 010274
R-643	Original Contracts "S"	JB 010275
R-670	Contracts E-H	JB 010273
R-671	Contract Cons-D	JB 010275
R-675	Contracts CO	JB 010273
R-677	Contracts T-Z	JB 010296
R-683	Contract HRI	JB 010273
R-692	Karen Currie - Serostim Study	JB 010266
R-692A	Serostim Preferred Partner Program Agreement Sample Documents	JB 010252
R-693	Karen Currie - Serostim Study	JB 010276
R-694	Karen Currie - Serostim Study	JB 010277
R-695	Karen Currie - Serostim Study	JB 010277
R-696	Karen Currie - Serostim Study	JB 010265
R-697	Karen Currie - Serostim Study	JB 010267
R-698	Karen Currie - Serostim Study	JB 010278
R-699	Karen Currie - Serostim Study	JB 010279
R-700	Karen Currie - Serostim Study	JB 010270
R-701	Karen Currie - Serostim Study	JB 010269
R-702	Karen Currie - Serostim Study	JB 010279
R-703	Personnel files	JB 010273
R-704	Personnel files	JB 010275

R-705	Personnel files	JB 010273
R-706	Personnel files	JB 010273
R-707	Personnel files	JB 010280
R-710	J. Larson	Available for review
R-712	J. Larson	Available for review
R-713	J. Larson	JB 010281
R-714	J. Larson	JB 010281
R-715	J. Larson	JB 010281
R-716	J. Larson	Available for review
R-717	J. Larson	Available for review
R-720	MENA Account Payable	JB 010275
R-741	A. Civetti	JB 010296
R-744	A. Civetti	JB 010296
R-748	John Abel	JB 010296
R-760	Original Contracts W-Z	JB 010282
R-766	Jeff Hart	JB 010282
R-781	SeronAIDS - Phase I Site Data	Available for review
R-782	M&IT, R. Azulay, E. Frank, N. Muurahainen	Available for review
R-783	MENA	Available for review
R-785	Personnel files	JB 010283
R-787	Videos	Video tapes -- to be duplicated
R-798	GELCO Expense Reports	JB 010283
R-800	GELCO Expense Reports	JB 010286
R-801	GELCO Expense Reports	JB 010284
R-806	GELCO Expense Reports	JB 010284
R-807	Personnel files	JB 010284
R-812	Videos	Video tapes -- to be duplicated
R-817	GELCO Expense Reports	JB 010284
R-825	Finance Department	JB 010285
R-826	Eric Tisch	JB 010285
R-827	M&IT	JB 010242
R-828	Ernesto Bertarelli	JB 010285
R-829	Ernesto Bertarelli	JB 010285
R-830	Ernesto Bertarelli	JB 010285
R-831	J. Theurillat	JB 010286
R-832	J. Theurillat	JB 010286
R-833	J. Theurillat	JB 010286

R-834	F. Rubio-Sandi	JB 010285
R-840	J.P. Verhassel	JB 010285
R-841	J.P. Verhassel	JB 010285
R-842	J.P. Verhassel	JB 010285
R-843	M. Gehring	JB 010285
R-844	M. Gehring	JB 010285
R-846	See Index Re: Document Redacted For Privilege Produced on October 17, 2003	JB 010286
R-847	Tom Hallam	JB 010285
R-849	M&IT	JB 010285
R-861 A&B	GELCO Expense Reports	Available for review
R-866	R. Galinsky	Available for review
R-867	L. Constantino	Available for review
R-868	R. Galinsky	Available for review
R-869 A&B	GELCO Expense Reports	Available for review
R-870	Human Resource	Available for review
R-871	Human Resource	Available for review
R-872 A&B	GELCO Expense Reports	Available for review
R-873 A&B	GELCO Expense Reports	Available for review
R-874	MRS Department	JB 010287, JB 010297
R-875	MRS Department	JB 010283, JB 010287
R-876	MRS Department	JB 010283, JB 010287
R-877	MRS Department	JB 010287
R-878	MRS Department	JB 010287
R-879	MRS Department	JB 010288
R-880	MRS Department	JB 010288
R-881	MRS Department	JB 010288
R-882	MRS Department	JB 010288
R-883	MRS Department	JB 010289
R-884	MRS Department	JB 010289
R-885	MRS Department	JB 010289
R-886	MRS Department	JB 010289
R-887	MRS Department	JB 010289
R-888	MRS Department	JB 010290
R-889	MRS Department	JB 010290
R-890	MRS Department	JB 010290
R-891	MRS Department	JB 010290
R-892	MRS Department	JB 010291

R-893	MRS Department	JB 010291
R-894	MRS Department	JB 010291
R-895	MRS Department	JB 010291
R-896	MRS Department	JB 010291
R-897	MRS Department	Available for review
R-898	MRS Department	Available for review
R-899	MRS Department	Available for review
R-900	MRS Department	Available for review
R-901	MRS Department	Available for review
R-902	MRS Department	JB 010292
R-903	MRS Department	JB 010292
R-904	MRS Department	JB 010292
R-905	MRS Department	JB 010292
R-906	MRS Department	JB 010292
R-907	MRS Department	JB 010293
R-908	MRS Department	JB 010293
R-909	MRS Department	JB 010293
R-910	MRS Department	JB 010293
R-911	MRS Department	JB 010293
R-912	MRS Department	JB 010294
R-913	MRS Department	JB 010294
R-914	MRS Department	JB 010294
R-915	MRS Department	JB 010294
R-916	MRS Department	JB 010295
R-917	MRS Department	JB 010295
R-918	MRS Department	JB 010295
R-919	MRS Department	JB 010295
R-920	MRS Department	JB 010263
R-921	MRS Department	JB 010296
R-922	MRS Department	JB 010296
R-923	MRS Department	JB 010296
R-924	MRS Department	JB 010296
R-925	MRS Department	JB 010297
R-927	Video Tapes	Video tapes -- to be duplicated
R-928	Audio Tapes	Audio tapes -- to be duplicated
R-929	Human Resources	Available for review
R-932	L. Constantino	JB 010297

R-933	K. Wills	Available for review
R-934	D. Kemp	Available for review
R-935	K. Wills	Available for review
R-936	See Index Re: Document Redacted For Privilege Produced on October 15, 2004	Available for review
R-937	R. Rhinehart	Available for review
R-938	D. Kemp	JB 010297
R-940	PowerPoint Presentation Re: Scope of Serostim Indication: AIDS Wasting	Available for review
R-943	PowerPoint Presentation RE: Lipodystrophy	Available for review
R-944	PowerPoint Presentation Re: BIA and Pharmacies	Available for review
R-945	Employee List	Available for review
R-946	Employee List and February 7, 2005 Presentation	Available for review
R-947	Personnel files	JB 010285
R-948	J. Hart	JB 010285
R-949	J. Hart	JB 010286
R-949B		JB 010286
R-950	J. Hart	JB 010285
R-951		Available for review
R-952	Previously Withheld Documents	JB 010285
R-953	Previously Withheld Documents	JB 010285



U.S. Department of Justice

Michael J. Sullivan
United States Attorney
District of Massachusetts

Main Reception: (617) 748-3100

John Joseph Moakley United States Courthouse
1 Courthouse Way
Suite 9200
Boston, Massachusetts 02210

December 5, 2005

VIA FEDERAL EXPRESS

Tracy Miner, Esq.
Mintz, Levin, Cohn, Ferris, Glovsky & Popeo LLP
One Financial Center
Boston, MA 02111

Re: United States v. Marc Sirockman, et al.
Criminal No. 05-10102-JLT

Dear Ms. Miner:

It has been brought to our attention that the State Settlement Agreements, bates numbered JB 008618 - JB 009175, produced electronically on November 14, 2005 were largely illegible. Enclosed is a reproduction of those State Settlement Agreements.

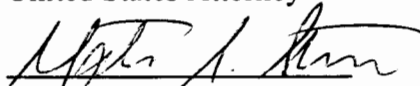
Also enclosed is a reproduction of the compact disc labeled "Data Disk 1-7, Lipo-CRF, C:\DATA\DOC #1," bates numbered JB 009709, included in the November 14, 2005 production as part of exhibit 3(t) to Christine Driscoll's January 11, 2005 testimony. The zip file contained on the disc had previously produced an error but now has been expanded and should be viewable. Please note that the disc is a mirror image of the files used as part of exhibit 3(t).

Should you have any questions or problems, do not hesitate to contact me at 617-748-3646.

Very truly yours,

MICHAEL J. SULLIVAN
United States Attorney

By:


MATTHEW S. STAVRIS
Healthcare Fraud Paralegal